FEDERAL REGISTER

VOLUME 18 NUMBER 54

Washington, Friday, March 20, 1953

TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 10439

AMENDMENT OF EXECUTIVE ORDER NO. 10163[1] OF SEPTEMBER 25, 1950, ESTABLISHING THE ARMED FORCES RESERVE MEDAL

By virtue of the authority vested in me as President of the United States and as Commander in Chief of the Armed Forces of the United States, it is ordered that paragraph 3 of Executive Order No. 10163 of September 25, 1950, establishing the Armed Forces Reserve Medal, be, and it is hereby, amended to read as follows:

3. The Armed Forces Reserve Medal may be awarded to members or former members of the reserve components of the armed forces of the United States, including the Coast Guard Reserve and the Marine Corps Reserve, who complete or have completed a total of ten years of honorable service in one or more of such reserve components, including annual active-duty and inactive-duty training as required by appropriate regulations: *Provided* (1) that such ten years of service is, or has been, performed within a period of twelve consecutive years, (2) that such service shall not include service in a regular component of the armed forces, including the Coast Guard, but (a) service in a reserve component which is concurrent, in whole or in part, with service in a regular component of the armed forces shall be included in computing the required ten years of reserve service, and (b) any period of time during which reserve service is interrupted by service in a regular component of the armed forces shall be excluded in computing, and shall not be considered a break in, the said period of twelve consecutive years, and (3) that such service shall not include service for which the Naval Reserve Medal or the Marine Corps Reserve Medal has been, or may be, awarded: *And provided further,* that any medal awarded hereunder shall be of the design distinctive of the reserve component in which the person to whom it is awarded is serving at the time of the award or in which such person last served.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
March 19, 1953.

[F. R. Doc. 53-2526; Filed, Mar. 19, 1953; 10:28 a. m.]

[1] 15 F. R. 6489; 3 CFR, 1950 Supp.

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

TREASURY DEPARTMENT; HOUSING AND HOME FINANCE AGENCY

1. Effective upon publication in the FEDERAL REGISTER, § 6.103 (c) (3) is amended to read as follows:

§ 6.103 *Treasury Department.* * * *

(c) *Office of the Under Secretary.* * * *

(3) One assistant to the Secretary, and Supervisor, Analysis Staff, and one Head, Tax Analysis Staff.

2. Effective upon publication in the FEDERAL REGISTER, subparagraph (2) is added to § 6.142 (a) as follows:

§ 6.142 *Housing and Home Finance Agency*—(a) *Office of the Administrator* * * *

(2) One confidential assistant or secretary to the Administrator.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633. E. O. 9830, Feb. 24, 1947, 12 F. R. 1259; 3 CFR 1947 Supp. E. O. 9973, June 28, 1948, 13 F. R. 3600; 3 CFR 1948 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] C. L. EDWARDS,
Executive Director.

[F. R. Doc. 53-2453; Filed, Mar. 19, 1953; 8:48 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter I—Farm Credit Administration, Department of Agriculture

Subchapter F—Banks for Cooperatives

[FCA Order 565]

PART 70—LOAN INTEREST RATES AND SECURITY

INCREASE IN INTEREST RATE; SPRINGFIELD BANK FOR COOPERATIVES

Effective April 1, 1953, the rates of interest which may be charged by the Springfield Bank for Cooperatives on loans, as specified in Part 70, Chapter I,

(Continued on p. 1583)

CONTENTS

THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Federal Register Division, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

The regulatory material appearing herein is keyed to the Code of Federal Regulations, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended June 19, 1937.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15.00 per year, payable in advance. The charge for individual copies (minimum 15¢) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D. C.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

CONTENTS—Continued

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

Title 6, Code of Federal Regulations,[1] are hereby changed as follows:

In § 70.4, change to 3¼ per centum per annum.

In § 70.5, change to 3 per centum per annum.

In § 70.7, change to 4¼ per centum per annum.

(Sec. 8, 46 Stat. 14, as amended; 12 U. S. C. 1141f)

[SEAL] I. W DUGGAN, *Governor*

[F. R. Doc. 53-2451; Filed, Mar. 19, 1953; 8:48 a. m.]

TITLE 14—CIVIL AVIATION

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 31]

PART 610—MINIMUM EN ROUTE INSTRUMENT ALTITUDES

ALTERATIONS

The minimum en route IFR altitudes appearing hereinafter have been coordinated with interested members of the industry in the regions concerned insofar as practicable. The altitudes are adopted without delay in order to provide for safety in air commerce. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to the public interest, and therefore is not required.

Part 610 is amended as follows:

1. Section 610.104 *Amber civil airway No. 4* is amended to read in part:

From—	To—	Minimum altitude
Sioux City, Iowa (LFR).	Sioux Falls, S. Dak. (LFR).	2,900

2. Section 610.106 *Amber civil airway No. 6* is amended to read in part:

From—	To—	Minimum altitude
Alma, Ga. (LFR)	Macon, Ga. (LFR)	1,600

[1] 17 F. R. 1493; amended in 17 F. R. 2587, 3221, and 18 F. R. 947.

3. Section 610.211 *Red civil airway No. 11* is amended to eliminate:

From—	To—	Minimum altitude
Angola, N. Y. (FAI)	Danville (LF/RBN), N. Y.	4,000

4. Section 610.292 *Red civil airway No. 92* is amended to read:

From—	To—	Minimum altitude
Int. SE crs. Newark, N. J. (LFR) and SW crs. Islip, N. Y. (VAR).	Islip, N. Y. (VAR)	1,500
Islip, N. Y. (VAR)	Int. NE crs. Islip, N. Y. (VAR) and SE crs. Bridgeport, Conn. (LFR).	1,500

5. Section 610.604 *Blue civil airway No. 4* is amended to read in part:

From—	To—	Minimum altitude
Burlington, Vt. (LFR).	Hemmingsford, P. Q. (LF/RBN).[1]	1,500

[1] For that airspace over United States territory.

6. Section 610.621 *Blue civil airway No. 21* is amended to read in part:

From—	To—	Minimum altitude
Lexington, Ky. (RBN).	Int. W crs. Huntington, W. Va. (LFR) and E crs. Louisville, Ky. (LFR).	2,500
Charleston, W. Va. (LFR).	Parkersburg, W. Va. (VAR).	2,500
Parkersburg, W. Va. (VAR).	Int. NE crs. Parkersburg, W. Va. (VAR) and W crs. Pittsburgh, Pa. (LFR).	6,000

7. Section 610.639 *Blue civil airway No. 39* is amended to eliminate:

From—	To—	Minimum altitude
Elmira, N. Y. (LFR)	Syracuse, N. Y. (LFR).	3,500
Syracuse, N. Y. (LFR).	U. S. Canadian Boundary.	2,000

8. Section 610.681 *Blue civil airway No. 81* is amended to read in part:

From—	To—	Minimum altitude
Int. N crs. Charleston, W. Va. and SW crs. Parkersburg, W. Va. (VAR).	Zanesville, Ohio (RBN).	2,200

9. Section 610.6013 *VOR civil airway No. 13* is amended to read in part:

From—	To—	Minimum altitude
Fort Smith, Ark. (VOR).	Neosho, Mo. (VOR)	[1] 3,500

[1] 3,100'—Minimum terrain clearance altitude.

10. Section 610.6015 *VOR civil airway No. 15* is amended to read in part:

From—	To—	Minimum altitude
Sioux City, Iowa (VOR), Dir. of E alter.	Sioux Falls, S. Dak. (VOR), Dir. of E alter.	2,000

11. Section 610.6019 *VOR civil airway No. 16* is amended to read in part:

From—	To—	Minimum altitude
Cochise, Ariz. (VOR)	Animas (Int), Ariz.	12,000
Animas (INT), Ariz.[1]	Columbus, N. Mex. (VOR):	
	Eastbound	8,000
	Westbound	10,000

[1] 12,000'—Minimum crossing altitude at Animas (INT), westbound.

12. Section 610.6040 *VOR civil airway No. 40* is amended to read in part:

From—	To—	Minimum altitude
Clarksfield (INT), Ohio.	Wellington, Ohio (VAR).	2,000
Wellington, Ohio (VAR).	Medina (INT), Ohio.	2,500

13. Section 610.6061 *VOR civil airway No. 61* is amended to read in part:

From—	To—	Minimum altitude
Wichita Falls, Tex. (VOR).	Lawton, Okla. (VOR).	2,200

14. Section 610.6066 *VOR civil airway No. 66* is amended to read in part:

From—	To—	Minimum altitude
Douglas, Ariz. (VOR).	Animas (INT), Ariz.	10,000
Animas (INT), Ariz.	Columbus, N. Mex. (VOR):	
	Eastbound	8,000
	Westbound	10,000

15. Section 610.6069 *VOR civil airway No. 69* is amended to read in part:

From—	To—	Minimum altitude
Walnut Ridge, Ark. (VOR).	Farmington, Mo. (VOR).	[1] 2,700

[1] 2,500'—Minimum terrain clearance altitude.

16. Section 610.6073 *VOR civil airway No. 73* is amended to read in part:

From—	To—	Minimum altitude
Hutchinson, Kans. (VOR).	Salina, Kans. (VOR).	2,800
Tulsa, Okla. (VOR) Via E alter.	Wichita, Kans. (VOR) Via E alter.	[1] 3,000 [1] 3,200

[1] 2,800'—Minimum terrain clearance altitude.

17. Section 610.6110 *VOR civil airway No. 110* is amended to read:

From—	To—	Minimum altitude
Saratoga (INT), Calif.	San Francisco, Calif. (VOR).	5,000
San Francisco, Calif. (VOR).	Altamont (INT), Calif.	5,000

18. Section 610.6401 *Hawaiian VOR civil airway No. 1* is added to read:

From—	To—	Minimum altitude
Hilo, T. H. (VOR)	Hibiscus (INT), T. H.	3,000

19. Section 610.6402 *Hawaiian VOR civil airway No. 2*, is added to read:

From—	To—	Minimum altitude
Lihue, T. H. (VOR)	Makai (INT) T. H.[1]	5,000
Makai (INT), T. H.	Honolulu, T. H. (VOR).	4,000
Barbers Point, T. H. (FM).	Honolulu, T. H. (VOR) (northeast-bound only).	2,000
Lihue, T. H. (VOR)	Hula Girl (INT), T. H. Via S alter.	4,000
Hula Girl (INT), T. H.	Makai (INT), T. H. Via S alter.	4,000
Makai (INT), T. H.	Honolulu, T. H. (VOR) Via S alter.	4,000
Barbers Point, T. H. (FM).	Honolulu, T. H. (VOR) Via S alter (northeast-bound only).	2,000
Honolulu, T. H. (VOR) Dir. or S alter.	Lanai, T. H. (VOR) Dir. or S alter.	5,000
Lanai, T. H. (VOR)	Pineapple (INT), T. H.	5,000
Pineapple (INT), T. H.	Rainbow (INT), T. H.	4,000
Rainbow (INT), T. H.	Upolu, T. H. (VOR)	5,000
Upolu, T. H. (VOR)	Paradise (INT), T. H.	5,000
Paradise (INT), T. H.	Hilo, T. H. (VOR)	4,000

[1] 5,000'—Minimum crossing altitude at Makai (INT), westbound.

20. Section 610.6403 *Hawaiian VOR civil airway No. 3* is added to read:

From—	To—	Minimum altitude
Hilo, T. H. (VOR)	Grass Shack (INT), T. H.	3,000

21. Section 610.6404 *Hawaiian VOR civil airway No. 4* is added to read:

From—	To—	Minimum altitude
South Port Allen (INT), T. H.	Hula Girl (INT), T. H.	7,000
Hula Girl (INT), T. H.	Makai (INT), T. H.	4,000
Makai (INT), T. H.	Honolulu, T. H. (VOR).	4,000
Barbers Point, T. H. (FM).	Honolulu, T. H. (VOR) (northeast-bound only).	2,000
Honolulu, T. H. (VOR).[1]	Kaneohe (INT), T. H.	6,000
Kaneohe (INT), T. H.	North Lanai (INT), T. H.	9,000
North Lanai (INT), T. H.	North Maui (INT), T. H.	14,500

[1] 6,000'—Minimum crossing altitude at Honolulu (VOR), northeast-bound.

22. Section 610.6405 *Hawaiian VOR civil airway No. 5* is added to read:

From—	To—	Minimum altitude
Rainbow (INT), T. H.	Maui, T. H. (VOR)	4,000
Maui, T. H. (VOR)	North Maui (INT), T. H.	14,500

23. Section 610.6406 *Hawaiian VOR civil airway No. 6* is added to read:

From—	To—	Minimum altitude
Lanai, T. H. (VOR)	Maui, T. H. (VOR)	6,500

24. Section 610.6407 *Hawaiian VOR civil airway No. 7* is added to read:

From—	To—	Minimum altitude
Lanai, T. H. (VOR)	North Lanai (INT), T. H.	9,000

25. Section 610.6408 *Hawaiian VOR civil airway No. 8* is added to read:

From—	To—	Minimum altitude
Pineapple (INT), T. H.	Maui, T. H. (VOR)	5,000

26. Section 610.6409 *Hawaiian VOR civil airway No. 9* is added to read:

From—	To—	Minimum altitude
South Honolulu (INT), T. H.	Honolulu, T. H. (VOR).	6,000

27. Section 610.6410 *Hawaiian VOR civil airway No. 10* is added to read:

From—	To—	Minimum altitude
Upolu, T. H. (VOR)	Paradise (INT), T. H.	5,000
Paradise (INT), T. H.	Grass Shack (INT), T. H.	3,000
Grass Shack (INT), T. H.	Hibiscus (INT), T. H.	3,000

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

These rules shall become effective March 24, 1953.

[SEAL] F B. LEE,
Acting Administrator of Civil Aeronautics.

[F. R. Doc. 53-2436; Filed, Mar. 19, 1953; 8:45 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 5811]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

NEW AMERICAN LIBRARY OF WORLD LITERATURE, INC., ET AL.

Subpart—*Misbranding or mislabeling:* § 3.1230 *Identity;* § 3.1265 *Old, secondhand, reclaimed or reconstructed product as new.* Subpart—*Misrepresenting oneself and goods—Goods:* § 3.1605 *Content;* § 3.1655 *Identity;* § 3.1695 *Old, secondhand, reclaimed or reconstructed as new.* Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 3.1850 *Content;* § 3.1855 *Identity;* § 3.1880 *Old, used, reclaimed or reused as unused or new.* Subpart—*Using misleading name—Goods:* § 3.2300 *Identity;* § 3.2320 *Old, secondhand, reconstructed or reused, as new.* In connection with the offering for sale, sale or distribution of books in commerce, (1) offering for sale or selling any abridged copy of a book unless one of the following words, namely: "abridged," "abridgement," "condensed" or "condensation," or any other word or phrase stating with equal clarity that said book is abridged, appears upon the front cover and upon the title page thereof in immediate connection with the title, and in clear, conspicuous type; or (2) using or substituting a new title for, or in place of, the original title of a reprinted book unless, upon the front cover and upon the title page thereof, such substitute

title is immediately accompanied, in clear, conspicuous type, by a statement which reveals the original title of the book and that it has been published previously thereunder; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Modified cease and desist order. The New American Library of World Literature, Inc. et al., New York, N. Y., Docket 5811, January 6, 1953]

In the Matter of the New American Library of World Literature, Inc., a Corporation, Kurt Enoch, and Victor Weybright, Individually and as Officers of the New American Library of World Literature, Inc., a Corporation

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on September 19, 1950, issued and subsequently served its complaint in this proceeding upon the respondents named in the caption hereof, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer thereto, hearings were held at which testimony and other evidence in support of and in opposition to the allegations of said complaint were introduced before a hearing examiner of the Commission theretofore duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final consideration by said hearing examiner on the complaint, the answer thereto, testimony and other evidence, oral arguments of counsel and proposed findings as to the facts and conclusions presented by counsel, and said hearing examiner, on April 16, 1951, filed his initial decision.

Within the time permitted by the Commission's Rules of Practice, counsel for respondents filed with the Commission an appeal from said initial decision, and thereafter this proceeding regularly came on for final consideration by the Commission upon the record herein, including briefs in support of and in opposition to said appeal and oral arguments of counsel; and the Commission, having issued its order granting said appeal in part and denying it in part and being fully advised in the premises, found that this proceeding was in the interest of the public and on September 19, 1952, made its findings as to the facts and its conclusion drawn therefrom and order, the same to be in lieu of the initial decision of the hearing examiner.

Thereafter on November 21, 1952, respondents filed with the Commission a motion to modify its decision of September 19, 1952, with respect to the provisions of the order to cease and desist included therein, and the Commission, having duly considered the matter and entered its order granting the said motion in part and denying it in all other respects, makes this its findings as to the facts[1] and its conclusion drawn therefrom[1] and order, the same to be in lieu of its decision herein issued on September 19, 1952.

It is ordered, That the respondent, The New American Library of World Literature, Inc., a corporation, and its officers, and the respondents, Kurt Enoch and Victor Weybright, individually and as officers of said corporation, and said respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of books in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering for sale or selling any abridged copy of a book unless one of the following words, namely: "abridged," "abridgement," "condensed" or "condensation," or any other word or phrase stating with equal clarity that said book is abridged, appears upon the front cover and upon the title page thereof in immediate connection with the title, and in clear, conspicuous type.

2. Using or substituting a new title for, or in place of, the original title of a reprinted book unless, upon the front cover and upon the title page thereof, such substitute title is immediately accompanied, in clear, conspicuous type, by a statement which reveals the original title of the book and that it has been published previously thereunder.

It is further ordered, That the charges of the complaint hereinbefore referred to and considered in paragraphs (b) and (c) of the conclusion be, and the same hereby are, dismissed without prejudice to the right of the Commission to take such further or other action in the future as may be warranted by the then existing circumstances.

It is further ordered, That the respondents, The New American Library of World Literature, Inc., Kurt Enoch and Victor Weybright, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: January 6, 1953.

By the Commission.[2]

[SEAL] D. C. DANIEL, *Secretary.*

[F. R. Doc. 53-2470; Filed, Mar. 19, 1953; 8:51 a. m.]

[Docket 5929]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

U. S. PENCIL CO., INC., ET AL.

Subpart—*Advertising falsely or misleadingly:* § 3.15 *Business status, advantages, or connections: Concealed subsidiary or interest: Identity;* § 3.20 *Comparative data or merits;* § 3.75 *Free goods or services;* § 3.265 *Tests and investigations.* Subpart—*Enforcing dealings or payments wrongfully:* § 3.1045 *Enforcing dealings or payments wrongfully.* Subpart—*Offering unfair improper and deceptive inducements to purchase or deal:* § 3.1955 *Free goods.* In connection with the sale, offering for sale or distribution of pencils or other merchandise in commerce, (1) using the word "free" or any other word or words of similar import or meaning, to designate, describe or refer to articles of merchandise which are not in truth and in fact a gift or gratuity or are not given to the recipient thereof without requiring the purchase of other merchandise, or requiring the performance of some service inuring, directly or indirectly, to the benefit of the respondents; (2) representing directly or by implication that respondents' pencils are superior to all other leading brands of lead pencils; (3) representing directly or by implication that the leads in respondents' pencils are twice as strong or significantly stronger than the lead in ordinary or leading brands of pencils; (4) representing directly or by implication that tests have been made of the strength of leads in respondents or other pencils by the use of a United States Bureau of Standards testing machine; or, (5) representing directly or by implication that "National Credit Service Company," or any other trade or fictitious name under which business is done by respondents, is a bona fide collection agency not connected with respondents; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, United States Pencil Company, Inc., et al., New York, N. Y., Docket 5929, January 3, 1953]

In the Matter of United States Pencil Co., Inc., a Corporation, and David Teitelbaum and Samuel Fingerhut, Individually and as Officers of Said Corporation

This proceeding was heard by J. Earl Cox, hearing examiner, upon the complaint of the Commission, respondents' answer, and hearings at which testimony and other evidence, in support of and in opposition to the allegations of said complaint, duly recorded and filed in the office of the Commission, were introduced before said examiner, theretofore duly designated by the Commission.

Thereafter the proceeding regularly came on for final consideration by said examiner on the complaint, answer thereto, testimony and other evidence, and proposed findings of facts and conclusions presented by counsel, oral argument not having been requested, and said examiner, having duly considered the record in the matter and having found that the proceeding was in the interest of the public, made his initial decision comprising certain findings as to the facts,[1] conclusion drawn therefrom,[1] and order to cease and desist.

Thereafter, no appeal brief having been filed within the time provided by the Commission's rules of practice, following the seasonable filing by counsel for respondents of their intention to appeal from said initial decision, so that

[1] Filed as part of the original document.

[2] Commissioner Carretta not participating for the reason that oral argument on respondents' appeal from the initial decision of the hearing examiner was heard prior to his appointment to the Commission.

no matters had been presented for determination by the Commission on appeal, said initial decision of said hearing examiner, pursuant to Rules XXII and XXIII of the Commission's rules of practice, became the decision of the Commission on January 3, 1953.

The said order to cease and desist is as follows:

It is ordered, That respondents, United States Pencil Co., Inc., a corporation, and its officers, and David Teitelbaum and Samuel Fingerhut, individually and as officers of United States Pencil Co., Inc., their representatives, agents and employees, directly or through any corporate or other device, in connection with the sale, offering for sale or distribution of pencils or other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "free," or any other word or words of similar import or meaning, to designate, describe or refer to articles of merchandise which are not in truth and in fact a gift or gratuity or are not given to the recipient thereof without requiring the purchase of other merchandise, or requiring the performance of some service inuring, directly or indirectly, to the benefit of the respondents;

2. Representing directly or by implication that respondents' pencils are superior to all other leading brands of lead pencils;

3. Representing directly or by implication that the leads in respondents' pencils are twice as strong or significantly stronger than the lead in ordinary or leading brands of pencils;

4. Representing directly or by implication that tests have been made of the strength of leads in respondents or other pencils by the use of a United States Bureau of Standards testing machine;

5. Representing directly or by implication that "National Credit Service Company," or any other trade or fictitious name under which business is done by respondents, is a bona fide collection agency not connected with respondents.

By "Decision of the Commission and order to file report of compliance" Docket 5929, January 22, 1953, which announced fruition of said initial decision, Commissioners Mason and Carretta not concurring in those portions of the findings as to the facts, conclusion, and order to cease and desist which relate to the use of the word "free" report of compliance was required and said dissents recorded as follows:

It is ordered, That the respondent, United States Pencil Co., Inc., a corporation, and the respondents, David Teitelbaum and Samuel Fingerhut, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order contained in said decision.

Issued: January 22, 1953.

By the Commission.[2]

[SEAL] D. C. DANIEL, *Secretary.*

[F. R. Doc. 53-2471; Filed, Mar. 19, 1953; 8:51 a. m.]

[Docket 5930]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

U. S. STATIONERY CO.

Subpart—*Advertising falsely or misleadingly:* § 3.15 *Business status, advantages, or connections: Concealed subsidiary or interest: Identity;* § 3.155 *Prices: Exaggerated as regular and customary.* Subpart—*Enforcing dealings or payments wrongfully:* § 3.1045 *Enforcing dealings or payments wrongfully.* In connection with the sale, offering for sale, or the distribution of steel filing cabinets, steel storage cabinets or other merchandise in commerce, (1) representing as the customary or usual price or value of said merchandise any price or value which is in excess of the price at which said merchandise is customarily offered for sale and sold in the usual course of business; (2) representing, directly or by implication, that National Credit Service Company, or any other trade or fictitious name under which a similar business is done by respondents, is a bona fide collection agency not connected with respondents; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, David Teitelbaum et al. doing business as United States Stationery Company, New York, N. Y., Docket 5930, January 3, 1953]

In the Matter of David Teitelbaum, William Teitelbaum, Carl Teitelbaum, Samuel Fingerhut, and Arthur Fingerhut, Copartners Doing Business as United States Stationery Company

This proceeding was heard by J. Earl Cox, hearing examiner, upon the complaint of the Commission, respondents' answer, and hearings at which testimony and other evidence, in support of and in opposition to the allegations of said complaint, duly recorded and filed in the office of the Commission, were introduced before said examiner, theretofore duly designated by the Commission.

Thereafter the proceeding regularly came on for final consideration by said examiner on the complaint, answer thereto, testimony and other evidence, and proposed findings as to the facts and conclusions presented by counsel, oral argument not having been requested; and said hearing examiner, having duly considered the record in the matter and having found that the proceeding was in the interest of the public, made his initial decision, comprising certain findings as to the facts,[1] conclusions drawn therefrom,[1] and order to cease and desist.

Thereafter, no appeal brief having been filed within the time provided by the Commission's Rules of Practice, following the seasonable filing by counsel for respondents of their intention to appeal from said initial decision, so that no matters had been presented for determination by the Commission on appeal, said initial decision of said hearing examiner, pursuant to Rules XXII and XXIII of the Commission's Rules of Practice, became the decision of the Commission on January 3, 1953.

The said order to cease and desist is as follows:

It is ordered, That respondents David Teitelbaum, William Teitelbaum, Carl Teitelbaum, Samuel Fingerhut, and Arthur Fingerhut, individually and as copartners doing business as United States Stationery Company, or under any other name, their representatives, agents, and employees, directly or through any corporate or other device, in connection with the sale, offering for sale, or the distribution of steel filing cabinets, steel storage cabinets or other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing as the customary or usual price or value of said merchandise any price or value which is in excess of the price at which said merchandise is customarily offered for sale and sold in the usual course of business.

2. Representing, directly or by implication, that National Credit Service Company, or any other trade or fictitious name under which a similar business is done by respondents, is a bona fide collection agency not connected with respondents.

By "Decision of the Commission and order to file report of compliance", Docket 5930, January 22, 1953, which announced fruition of said initial decision, report of compliance was required as follows:

It is ordered, That the respondents, David Teitelbaum, William Teitelbaum, Carl Teitelbaum, Samuel Fingerhut, and Arthur Fingerhut, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order contained in said decision.

Issued: January 22, 1953.

By the Commission.

[SEAL] D. C. DANIEL, *Secretary.*

[F. R. Doc. 53-2472; Filed, Mar. 19, 1953; 8:52 a. m.]

---

[2] Commissioner Mason and Commissioner Carretta not concurring in those portions of the findings as to the facts, conclusion and order to cease and desist which relates to the use of the word "free."

[1] Filed as part of the original document.

[Docket 5980]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

LOMA DRESS CORP.

Subpart—*Neglecting, unfairly, or deceptively, to make material disclosure:* § 3.1845 *Composition.* In connection with the offering for sale, sale and distribution of articles of wearing apparel or other products composed in whole or in part of rayon, in commerce, offering for sale or selling said products without affirmatively and clearly disclosing thereon such rayon content, prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Loma Dress Corporation, New York, N. Y., Docket 5980, January 3, 1953]

This proceeding was heard by James A. Purcell, hearing examiner, upon the complaint of the Commission, respondent's answer thereto, and a hearing at which testimony and other evidence, duly recorded and filed in the office of the Commission, in support of the allegations of the complaint, were introduced before said examiner, theretofore duly designated by the Commission.

Thereafter the attorney in support of the complaint and attorney for respondent submitted a stipulation as to the facts, which was filed in the formal proceedings in the matter and formed the basis for the findings as to the facts and conclusions to the exclusion of consideration of respondent's answer and the aforesaid evidence.

Said stipulation provided that the facts recited might be taken as those in the proceeding and in lieu of evidence in support of the charges contained in the complaint, or in opposition thereto, and that the examiner might proceed upon said statement of facts to make his initial decision, including inferences which he might draw from the facts, conclusions based thereon, and enter his order disposing of the proceedings, the filing of proposed findings and conclusions and presentation of oral arguments having been expressly waived.

Thereafter, said examiner, having duly considered the record in the matter and having found that the proceeding was in the interest of the public, made his initial decision, comprising certain findings as to the facts,[1] conclusions drawn therefrom,[1] and order to cease and desist.

No appeal having been filed from said initial decision of said hearing examiner as provided for in Rule XXII, nor any other action taken as thereby provided to prevent said initial decision becoming the decision of the Commission thirty days from service thereof upon the parties, said initial decision, including said order to cease and desist, accordingly, under the provisions of said Rule XXII became the decision of the Commission on January 3, 1953.

The said order to cease and desist is as follows:

It is ordered, That the respondent, Loma Dress Corporation, a corporation, and its officers, representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale and distribution of articles of wearing apparel or other products composed in whole or in part of rayon, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from offering for sale or selling said products without affirmatively and clearly disclosing thereon such rayon content.

By "Decision of the Commission and order to file report of compliance," Docket 5980, January 2, 1953, which announced and decreed fruition of said initial decision, report of compliance was required as follows:

It is ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Issued: January 2, 1953.

By the Commission.

[SEAL] D. C. DANIEL, *Secretary.*

[F. R. Doc. 53-2473; Filed, Mar. 19, 1953; 8:52 a. m.]

[1] Filed as part of the original document.

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Federal Security Agency

PART 141—TESTS AND METHODS OF ASSAY FOR ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 146—CERTIFICATION OF BATCHES OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

MISCELLANEOUS AMENDMENTS

By virtue of the authority vested in the Federal Security Administrator by the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 52 Stat. 1040, 1055, as amended by 59 Stat. 463, 61 Stat. 11, 63 Stat. 409; 21 U. S. C. 357), the regulations for tests and methods of assay for antibiotic and antibiotic-containing drugs (21 CFR, 1951 Supp. 141) and certification of batches of antibiotic and antibiotic-containing drugs (21 CFR, 1951 Supp. 146; 17 F. R. 10622, 11738; 18 F. R. 1205) are amended as indicated below:

1. Part 141 is amended by adding the following new section:

§ 141.61 *Dibenzylethylenediamine-procaine-buffered crystalline penicillins for aqueous injection—(a) Potency—(1) Total potency.* Proceed as directed in § 141.1, except if the bioassay method is used prepare the sample by diluting 1.0 milliliter of the drug suspension with sufficient dimethyl formamide or formamide to dissolve the dibenzylethylenediamine dipenicillin G. Make to 100 milliliters with buffer. Shake well and dilute to 1.0 unit per milliliter. If the iodometric method of assay is used, add the indicated amount of distilled water to the contents of a vial of the sample, shake well, and proceed as follows:

(i) Using a standardized hypodermic syringe, withdraw 2.0 milliliters or one dose, place in a 500-milliliter volumetric flask and make to volume with distilled water. Use an aliquot of this suspension as the blank in the iodometric assay procedure described in § 141.5 (d) (1).

(ii) Using a standardized hypodermic syringe, withdraw another 2.0 milliliters or one dose, place in a 500-milliliter volumetric flask and add 20 milliliters N NaOH and 20 milliliters of water, mix well, being sure all penicillin is in solution, and allow to stand 15 minutes. Add 20 milliliters 1.2 N HCl, mix and dilute to volume with distilled water. Remove an aliquot containing approximately 2,000 units of penicillin, add 10 milliliters of 0.01 N iodine, allow to stand for 15 minutes and titrate with 0.01 N sodium thiosulfate as directed in the iodometric assay procedure, § 141.5 (d) (1) The total potency of the batch is satisfactory if it contains not less than 85 percent of that which it is represented to contain.

(2) *Procaine penicillin content.* Place a 10-milliliter aliquot of the 500 milliliters of solution prepared in subparagraph (1) (ii) of this paragraph in a 100-milliliter volumetric flask and make to volume with distilled water. Determine the procaine penicillin content of this solution by the colorimetric procedure described under § 141.32 (b) (3) The content of procaine penicillin in the batch is satisfactory if it is not less than 85 percent of that which it is represented to contain.

(3) *Buffered crystalline penicillin content.* Proceed as directed in § 141.32 (b). The content of buffered crystalline penicillin is satisfactory if it is not less than 85 percent of that which it is represented to contain.

(4) *Dibenzylethylenediamine dipenicillin content.* The sum of the procaine penicillin content determined under subparagraph (2) of this paragraph and the buffered crystalline penicillin content determined under subparagraph (3) of this paragraph, subtracted from the total potency determined in subparagraph (1) of this paragraph, represents the dibenzylethylenediamine dipenicillin content. The dibenzylethylenediamine dipenicillin content is satisfactory if it is not less than 85 percent of that which it is represented to contain.

(b) *Sterility.* Proceed as directed in § 141.2.

(c) *Pyrogens.* Proceed as directed in § 141.47 (d)

(d) *Toxicity.* Proceed as directed in § 141.47 (c)

(e) *Moisture.* Proceed as directed in § 141.26 (e)

(f) *pH.* Proceed as directed in § 141.47 (f).

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371)

2. Part 146 is amended by adding the following new section:

§ 146.85 *Dibenzylethylenediamine-procaine-buffered crystalline penicillins for aqueous injection.* Dibenzylethylenediamine-procaine-buffered crystalline penicillins for aqueous injection con-

forms to all requirements prescribed by § 146.50 for procaine penicillin and buffered crystalline penicillin for aqueous injection, except paragraph (b) of that section and is subject to all procedures prescribed by § 146.50 for procaine penicillin and buffered crystalline penicillin for aqueous injection, except that:

(a) Each immediate container shall contain not less than 600,000 units of dibenzylethylenediamine dipenicillin G, 300,000 units of procaine penicillin, and 300,000 units of buffered crystalline penicillin. The dibenzylethylenediamine dipenicillin G used conforms to the requirements prescribed therefor by § 146.68.

(b) Its moisture content is not more than 6 percent.

(c) Each package shall bear on the outside wrapper or container and the immediate container the number of units of dibenzylethylenediamine dipenicillin G in the immediate container, and its expiration date shall be 24 months after the month during which the batch was certified.

(d) In addition to complying with the requirements of § 146.50 (d) a person who requests certification of a batch of dibenzylethylenediamine-procaine-buffered crystalline penicillins for aqueous injection shall submit with his request a statement showing the batch mark, and (unless it was previously submitted) the results and the date of the latest tests and essays of the dibenzylethylenediamine dipencillin G used in making the batch for potency, crystallinity, and penicillin G content, and the number of units of dibenzylethylenediamine dipenicillin G in each container of the batch. He shall also submit in connection with his request a sample consisting of three packages containing approximately equal portions of not less than 0.5 gram each of the dibenzylethylenediamine dipenicillin G used in making the batch. If such batch is packaged for repacking, each portion in the sample required by § 146.50 (d) shall consist of approximately 0.5 gram in lieu of 400 milligrams.

(e) The fee for the services rendered with respect to each immediate container in the sample of dibenzylethylenediamine dipenicillin G submitted in accordance with the requirements prescribed therefor by this section shall be $4.00.

3. In § 146.101 *Streptomycin sulfate* * * * paragraph (c) (1) (iii) is amended by changing the figure "24" to read "48"

4. In § 146.105 *Streptomycin for topical use* * * * paragraph (c) (1) (iii) is amended by changing the figure "24" to read "48"

5. In § 146.112 *Streptomycin for inhalation therapy* * * * paragraph (c) (1) (iii) is amended by changing the figure "24" to read "48"

6. Section 146.413 *Bacitracin-neomycin troches* * * * is amended as follows:

a. In paragraph (a) change the figure "200" to read "50"

b. In paragraph (b), change the figure "3.5" to read "2.5"

c. In paragraph (c) change the period at the end thereof to a comma and add the following words: " preservatives, and chemical antimicrobial agents."

d. In paragraph (d), change the words "if it contains one or more local anesthetics," to read: "if it contains one or more of the ingredients specified in paragraph (c) of this section,"

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371)

This order, which provides for tests and methods of assay and certification of a new antibiotic drug, dibenzylethylenediamine-procaine-buffered crystalline penicillins for aqueous injection; for a change in the expiration date of streptomycin, streptomycin for topical use, and streptomycin for inhalation therapy from 24 to 48 months; and for the certification of bacitracin-neomycin troches which contain not less than 50 units of bacitracin and not less than 2.5 milligrams of neomycin, with the further provision that such troches may be tableted with or without suitable preservatives and chemical antimicrobial agents, shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry and since it would be against public interest to delay providing for the amendments set forth above.

Dated: March 16, 1953.

OVETA CULP HOBBY,
Federal Security Administrator

[F. R. Doc. 53-2449; Filed, Mar. 19, 1953; 8:48 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue, Department of the Treasury

Subchapter A—Income and Excess Profits Taxes

[T. D. 5997; Regs. 130]

PART 40—EXCESS PROFITS TAX; TAXABLE YEARS ENDING AFTER JUNE 30, 1950

MAXIMUM TAX FOR NEW CORPORATIONS

On December 13, 1952, a notice of proposed rule making was published in the FEDERAL REGISTER (17 F. R. 11343) to conform Regulations 130 (26 CFR, Part 40) to section 501 of the Revenue Act of 1951, approved October 20, 1951. After consideration of such relevant suggestions as were presented regarding the proposals, the amendments set forth below are hereby adopted.

PARAGRAPH 1. There is inserted immediately preceding § 40.430-1 the following:

SEC. 501. MAXIMUM TAX FOR NEW CORPORATIONS (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

Section 430 (relating to imposition of tax) is hereby amended as follows:

(1) By adding at the end of subsection (a) thereof, as amended by section 121 of this act, the following:

(3) In the case of a corporation for which an amount is determined for the taxable year under subsection (e), the amount determined under such subsection.

(2) By redesignating subsection (e) as subsection (f); and

(3) By inserting after subsection (d) the following new subsection:

(e) *New corporations*—(1) Alternative *amount.* In the case of a taxpayer which commenced business after July 1, 1945, and whose fifth taxable year ends after June 30, 1950, the amount referred to in subsection (a) (3) shall be—

(A) If the taxable year is the first or second taxable year of the taxpayer, an amount equal to 5 per centum of the excess profits net income for the taxable year, except that if the excess profits net income exceeds $300,000, the amount shall be the sum of $15,000 plus the amount determined under subparagraph (E) of this paragraph.

(B) If the taxable year is the third taxable year of the taxpayer, an amount equal to 8 per centum of the excess profits net income for the taxable year, except that if the excess profits net income exceeds $300,000, the amount shall be the sum of $24,000 plus the amount determined under subparagraph (E) of this paragraph.

(C) If the taxable year is the fourth taxable year of the taxpayer, an amount equal to 11 per centum of the excess profits net income for the taxable year, except that if the excess profits net income exceeds $300,000, the amount shall be the sum of $33,000 plus the amount determined under subparagraph (E) of this paragraph.

(D) If the taxable year is the fifth taxable year of the taxpayer, an amount equal to 14 per centum of the excess profits net income for the taxable year, except that if the excess profits net income exceeds $300,000, the amount shall be the sum of $42,000 plus the amount determined under subparagraph (E) of this paragraph.

(E) The amount determined under this subparagraph shall be—

(i) If the taxable year ends before April 1, 1951, an amount equal to 15 per centum of the excess of the excess profits net income for the taxable year over $300,000.

(ii) If the taxable year begins on January 1, 1951, and ends on December 31, 1951, an amount equal to 17¼ per centum of the excess of the excess profits net income for the taxable year over $300,000.

(iii) If the taxable year (other than a taxable year described in clause (ii)) ends after March 31, 1951, an amount equal to 18 per centum of the excess of the excess profits net income for the taxable year over $300,000.

(2) *First five taxable years.* For the purpose of this subsection—

(A) The taxable year in which the taxpayer commenced business and the first, second, third, and fourth succeeding taxable years shall be considered its first, second, third, fourth, and fifth taxable years, respectively.

(B) The taxpayer shall be considered to have been in existence and to have had taxable years for any period during which it or any corporation described in any clause of this subparagraph was in existence, and the taxpayer shall be considered to have commenced business on the earliest date on which it or any such corporation commenced business:

(i) Any corporation which during or prior to the taxable year was a party with the taxpayer to a transaction described in section 445 (g) (2) (A), (B), or (C), determined as if the date "July 1, 1945" were substituted for the date "December 1, 1950" in section 445 (g) (2) (C).

(ii) Any corporation if a group of not more than four persons who control the taxpayer at any time during the taxable year

also controlled such corporation at any time during the period beginning twelve months preceding their acquisition of control of the taxpayer and ending with the close of the taxable year; but only if at any time during such period (and while such persons controlled such corporation) such corporation was engaged in a trade or business substantially similar to the trade or business of the taxpayer during the taxable year. For the purpose of this clause, the term "control" means the ownership of more than 50 per centum of the total combined voting power of all classes of stock entitled to vote, or more than 50 per centum of the total value of shares of all classes of stock. A person shall not be considered a member of the group referred to in this clause unless during the period referred to in this clause he owns stock in such corporation at a time when the members of the group control such corporation and he owns stock in the taxpayer at a time when the members of the group control the taxpayer. For the purpose of this clause, the ownership of stock shall be determined in accordance with the provisions of section 503, except that constructive ownership under section 503 (a) (2) shall be determined only with respect to the individual's spouse and minor children.

(iii) In case the taxpayer during or prior to the taxable year was a purchasing corporation (as defined in part IV), the selling corporation (as defined in such part) whose properties were acquired in the part IV transaction; but this clause shall not apply unless for the taxable year or for any preceding taxable year the conditions of paragraphs (1), (2), and (3) of section 474 (c) were satisfied with respect to such transaction.

(iv) Any corporation which, under regulations prescribed by the Secretary, is determined by one or more additional applications of clauses (i) to (iii) to stand indirectly in the same relation to the taxpayer as though such corporation were described in any such clause.

If as of the beginning of December 1, 1950, the adjusted basis for determining gain upon sale or exchange of the aggregate assets theretofore acquired by the taxpayer in transactions described in clauses (i) and (iii) (or acquired in the ordinary course of business in replacement of such assets) and held by it at such time constituted less than 20 per centum of the adjusted basis for determining gain upon sale or exchange of its total assets held at such time, then transactions described in such clauses occurring prior to such date shall be disregarded in determining the date as of which the taxpayer shall be considered to have commenced business.

(3) *Limitation.* The provisions of paragraph (1) of this subsection shall not apply to a taxpayer which derives more than 50 per centum of its gross income (determined without regard to dividends and without regard to gains from sales or exchanges of capital assets) for the taxable year from contracts and subcontracts to which the provisions of title I of the Renegotiation Act of 1951 (or the provisions of any prior renegotiation act) are applicable.

SEC. 523. EFFECTIVE DATE OF TITLE V (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951). Except as otherwise provided in section 506 (d), the amendments made by this title (including sec. 501) shall be applicable only with respect to taxable years ending after June 30, 1950.

PAR. 2. Section 40.430–2, as amended by Treasury Decision 5969, approved December 29, 1952, is further amended as follows:

(A) By striking the period at the end of subdivision (iv) of paragraph (a) (1) and inserting in lieu thereof ", or", and by adding after such subdivision the following new subdivision (v)

(v) In the case of a new corporation for which an amount is determined for the taxable year under section 430 (e), the amount determined under such section and under paragraph (e) of this section.

(B) By redesignating the present paragraph (e) thereof as paragraph (f)

(C) By inserting immediately following paragraph (d) thereof the following new paragraph (e)

(e) *New corporations.* (1) Section 430 (e) together with section 430 (a) (3), provides, in the case of any corporation which commenced business after July 1, 1945, for a maximum excess profits tax for any of its first five taxable years which ends after June 30, 1950. The determination of such maximum excess profits tax, which is the amount referred to in section 430 (a) (3) and in paragraph (a) (1) (v) of this section, depends upon the amount of the excess profits net income and upon whether the taxable year is the first, second, third, fourth, or fifth taxable year of the taxpayer. If the excess profits net income for the taxable year does not exceed $300,000, the maximum excess profits tax will be an amount equal to 5 percent of the excess profits net income for the taxable year if such taxable year is the first or second taxable year of the taxpayer; an amount equal to 8 percent of the excess profits net income if the taxable year is the third taxable year of the taxpayer; an amount equal to 11 percent of the excess profits net income if the taxable year is the fourth taxable year of the taxpayer; and an amount equal to 14 percent of the excess profits net income if the taxable year is the fifth taxable year of the taxpayer. If the excess profits net income for the taxable year exceeds $300,000, the maximum excess profits tax will be an amount equal to the sum of $15,000, if the taxable year is the first or second taxable year of the taxpayer, $24,000, if the taxable year is the third taxable year of the taxpayer, $33,000, if the taxable year is the fourth taxable year of the taxpayer, and $42,000, if the taxable year is the fifth taxable year of the taxpayer, plus, in each case, an amount equal to (i) 15 percent of the amount by which the excess profits net income for such taxable year exceeds $300,000 if the taxable year ends before April 1, 1951, or (ii) 17¼ percent of such excess if the taxable year begins on January 1, 1951, and ends on December 31, 1951 (the calendar year 1951) or (iii) 18 percent of such excess if the taxable year ends after March 31, 1951, but is not the calendar year 1951.

(2) The determination of the maximum excess profits tax, as described in subparagraph (1) of this paragraph, is shown in the following chart:

A If the excess profits tax taxable year of the taxpayer is—	B If excess profits net income for the taxable year does not exceed $300,000, the maximum excess profits tax is—	C If excess profits net income for the taxable year exceeds $300,000, the maximum excess profits tax is—	D Amount to be added to column C where excess profits net income exceeds $300,000—
The first or second taxable year.	5 percent of excess profits net income.	$15,000 plus the amount specified in column D.	(i) If the taxable year ends before Apr. 1, 1951, 15 percent of the amount by which the excess profits net income for such taxable year exceeds $300,000; or (ii) If the taxable year begins on Jan. 1, 1951, and ends on Dec. 31, 1951 (the calendar year 1951), 17¼ percent of such excess; or (iii) If the taxable year ends after Mar. 31, 1951 (except the calendar year 1951), 18 percent of such excess.
The third taxable year....	8 percent of excess profits net income.	$24,000 plus the amount specified in column D.	
The fourth taxable year...	11 percent of excess profits net income.	$33,000 plus the amount specified in column D.	
The fifth taxable year.....	14 percent of excess profits net income.	$42,000 plus the amount specified in column D.	

(3) The date the corporation commenced business shall be determined for purposes of section 430 (e) and of this paragraph under the rules provided in the regulations promulgated under section 445, relating to the computation of average base period net income in the case of new corporations. See § 40.445–1 (a) (2) The taxable year in which the taxpayer commenced business, unless the taxpayer is considered to have had an earlier constructive existence, shall be considered its first taxable year and the next four succeeding taxable years shall be considered its second, third, fourth, and fifth taxable years, respectively. The taxpayer, however, shall be considered to have been in existence and to have had taxable years for any period during which any corporation described in section 430 (e) (2) (B) (i), (ii), (iii), or (iv) and in subparagraphs (5) through (8) of this paragraph, was in existence, and the taxpayer shall be considered to have commenced business on the earliest date on which it or any such corporation commenced business. See subparagraph (4) of this paragraph for the determination of constructive taxable years of the taxpayer where such other corporation came into existence prior to the date the taxpayer came into existence.

(4) If the taxpayer is deemed under the provisions of section 430 (e) (2) (B) and of this paragraph to have been in existence prior to the date on which it in fact came into existence and to have had taxable years prior to such date, its first five taxable years for purposes of section 430 (e) and of this paragraph shall be determined by reference to the annual accounting period first established by the taxpayer. Any 12-month period ending with the day on which such annual accounting period first established by the taxpayer ends and during all or part of which the taxpayer or any corporation described in section 430 (e) (2) (B) (i)–(iv) and in subparagraphs (5) through

(8) of this paragraph was in existence shall be considered a taxable year of the taxpayer for the purpose of determining its first five taxable years. If both the taxpayer and any other such corporation were in existence during all or part of any such 12-month period, such period shall nevertheless be considered to be only one taxable year of the taxpayer. Any such 12-month period, however, shall be considered a taxable year of the taxpayer if any such other corporation was in existence during all or part of such period, even though such period, or the part thereof in which such other corporation was in existence, did not constitute a taxable year of such other corporation. The rule set forth in this subparagraph may be illustrated by the following examples:

Example 1. Corporation A came into existence and commenced business on April 1, 1947. It adopted the calendar year as its annual accounting period and filed income tax returns for the period April 1, 1947, through December 31, 1947, and for the calendar year 1948. Corporation A was dissolved on June 30, 1949, and an income tax return was filed for the period January 1, 1949, through June 30, 1949. Corporation B came into existence and commenced business on July 1, 1949. Corporation B likewise adopted the calendar year as its annual accounting period and filed income tax returns for the period July 1, 1949, through December 31, 1949, and also for the calendar year 1950 and subsequent calendar years. By reason of a transaction described in section 430 (e) (2) (B), Corporation B is deemed for purposes of section 430 (e) and of (e) of this section to have commenced business on April 1, 1947, the date Corporation A commenced business, and to have been in existence and to have had taxable years since that date. Since Corporation B first adopted the calendar year as its annual accounting period, any 12-month period ending on December 31 during which either Corporation B or Corporation A was in existence will constitute a taxable year of Corporation B. Since Corporation A came into existence on April 1, 1947, it was in existence during part of the 12-month period January 1, 1947, through December 31, 1947, and such 12-month period will be deemed to be the first taxable year of Corporation B for purposes of section 430 (e) and of (e) of this section. Corporation A was in existence during the whole 12-month period January 1, 1948, through December 31, 1948, and such period will be deemed to be the second taxable year of Corporation B. Corporation A was in existence during part of the 12-month period January 1, 1949, through December 31, 1949, and Corporation B also was in existence during part of such period. The 12-month period January 1, 1949, through December 31, 1949, accordingly will be considered to be a taxable year of Corporation B and will be its third taxable year for purposes of section 430 (e) and of (e) of this section. The calendar years 1950 and 1951 will be the fourth and fifth taxable years, respectively, of Corporation B. It is to be noted that the 12-month period January 1, 1949, through December 31, 1949, is deemed to be one taxable year of Corporation B even though both Corporation A and Corporation B were in existence during part of such period and even though Corporation A filed an income tax return for the period January 1, 1949, through June 30, 1949, and Corporation B filed an income tax return for the period July 1, 1949, through December 31, 1949. It is to be further noted that in this example the 12-month period January 1, 1949, through December 31, 1949, would constitute one taxable year of Corporation B even though Corporation A had not been dissolved on June 30, 1949, but had continued in existence until after December 31, 1949.

Example 2. Assume in the above example that when Corporation A came into existence and commenced business on April 1, 1947, it adopted the fiscal year ending March 31 as its annual accounting period and filed income tax returns for the fiscal years April 1, 1947, through March 31, 1948, and April 1, 1948, through March 31, 1949, and also an income tax return for the period April 1, 1949, through June 30, 1949. Since Corporation B first adopted the calendar year as its annual accounting period, Corporation B's first five taxable years must be determined by reference to the 12-month periods ending on December 31. Corporation A came into existence on April 1, 1947, and accordingly was in existence during part of the 12-month period January 1, 1947, through December 31, 1947. Such 12-month period January 1, 1947, through December 31, 1947, accordingly will be deemed to be the first taxable year of Corporation B for purposes of section 430 (e) and of (e) of this section even though the period April 1, 1947, through December 31, 1947, did not constitute a taxable year of Corporation A. Similarly, the 12-month period January 1, 1948, through December 31, 1948, will be deemed to be the second taxable year of Corporation B even though such 12-month period did not constitute a taxable year of Corporation A. The 12-month periods January 1, 1949, through December 31, 1949, January 1, 1950, through December 31, 1950, and January 1, 1951, through December 31, 1951, will be deemed to be Corporation B's third, fourth, and fifth taxable years, respectively.

(5) (i) If any corporation during or prior to the taxable year for which the excess profits tax is being determined was a party with the taxpayer to a transaction described in section 445 (g) (2) (A) (B) or (C) determined as if the date "July 1, 1945" were substituted for the date "December 1, 1950" in section 445 (g) (2) (C) and if such other corporation had commenced business prior to the date on which the taxpayer commenced business, then the taxpayer, under the provisions of section 430 (e) (2) (B) (i) shall be deemed to have commenced business on the date such other corporation commenced business. The taxpayer shall also be considered to have been in existence during the whole period such other corporation was in existence and to have had taxable years during such period as determined under the provisions of subparagraph (4) of this paragraph. For limitation on the application of section 430 (e) (2) (B) (i) in certain cases, see subparagraph (9) of this paragraph.

(ii) The provisions of section 430 (e) (2) (B) (i) and of subdivision (i) of this subparagraph are applicable only if the party to the transaction with the taxpayer was a corporation. They do not apply, for example, where such party was an individual or a partnership. Thus, if an individual who has been operating a certain business as a sole proprietorship incorporates such business and transfers all the assets of the business to a newly formed corporation in a transaction which qualifies as a section 112 (b) (5) transaction, the newly formed corporation will not be deemed to have been in existence during the prior period when the individual was conducting the business as a sole proprietorship nor will the corporation be deemed to have had taxable years during such prior period.

(6) (i) If a group of not more than four persons control the taxpayer at any time during the taxable year for which the excess profits tax is being determined and if this same group of not more than four persons at any time during the period beginning 12 months prior to its acquisition of control of the taxpayer and ending with the close of such taxable year also controlled a second corporation which at some time during such period (and while the group controlled such second corporation) was engaged in a trade or business substantially similar to the trade or business carried on by the taxpayer during such taxable year, then under the provisions of section 430 (e) (2) (B) (ii) the taxpayer will be deemed to have commenced business on the date on which it itself commenced business or on the date on which such second corporation commenced business, whichever is the earlier. If the second corporation commenced business on a date prior to that on which the taxpayer commenced business, the taxpayer for purposes of section 430 (e) and of this paragraph will also be deemed to have been in existence for the entire period during which such second corporation was in existence and to have had taxable years during such period as determined under the provisions of subparagraph (4) of this paragraph.

(ii) For purposes of section 430 (e) (2) (B) (ii) and of subdivision (i) of this subparagraph a group of not more than four persons will be deemed to control the taxpayer or any other corporation if, and only if, the total stock ownership of such persons in the taxpayer or such other corporation represents more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of the shares of all classes of stock. For purposes of section 430 (e) (2) (B) (ii) and of this subdivision the ownership of stock shall be determined in accordance with the provisions of section 503, except that constructive ownership under section 503 (a) (2) shall be determined only with respect to the individual's spouse and minor children. A person will not be considered to be a member of the group of not more than four persons which controls the taxpayer at some time during the taxable year and which also controlled a second corporation at some time during the period referred to in section 430 (e) (2) (B) (ii) and in subdivision (i) of this subparagraph unless such person owned stock in the taxpayer at the time the group controlled the taxpayer during the taxable year and also owned stock in the second corporation at the time the group controlled such second corporation during the prescribed period. The individual does not have to own the same percentage of stock in the taxpayer as in the second corporation, but the individual must own some stock in the corporation at the time the group controls such corporation. It is not necessary for the group to control the taxpayer and second corporation at

the same time. If the group controlled the taxpayer at any time during the taxable year for which the excess profits tax is being determined and if the same group also controlled the second corporation at some time during the prescribed period, then the requirements of control provided in section 430 (e) (2) (B) (ii) will be met without regard to whether the group controlled the two corporations at the same time or at different times.

(iii) Whether or not the second corporation, at the time it was controlled by the group, was engaged in a trade or business substantially similar to the trade or business carried on by the taxpayer during the taxable year is a question of fact which must be determined in each particular case in the light of all the circumstances of that case.

(7) (i) If during or prior to the taxable year for which the excess profits tax is being determined the taxpayer was a purchasing corporation in a part IV transaction and if the selling corporation in such part IV transaction had commenced business on a date prior to that on which the taxpayer commenced business, then the taxpayer, under the provisions of section 430 (e) (2) (B) (iii) shall be deemed to have commenced business on the date such selling corporation commenced business. The taxpayer shall also be considered to have been in existence during the whole period such selling corporation was in existence and to have had taxable years during such period as determined under the provisions of subparagraph (4) of this paragraph. Section 430 (e) (2) (B) (iii) and this provision shall not be applicable, however, unless for the taxable year or any preceding taxable year the conditions of paragraphs (1) (2) and (3) of section 474 (c) were satisfied with respect to the part IV transaction. For limitation on the application of section 430 (e) (2) (B) (iii) in certain cases, see subparagraph (9) of this paragraph.

(ii) The terms "purchasing corporation" and "selling corporation" have the same meaning for purposes of section 430 (e) (2) (B) (iii) as for purposes of part IV. Since an individual operating a business as a sole proprietorship or a partnership, under certain circumstances, can be a selling corporation under part IV, such an individual or partnership, unlike the situation with respect to a transaction described in section 430 (e) (2) (B) (i) can likewise be considered to be a corporation for purposes of section 430 (e) (2) (B) (iii) If the taxpayer acquires assets from a sole proprietorship or from a partnership in a part IV transaction and if the sole proprietorship or the partnership constitutes a selling corporation under part IV, then the taxpayer will be deemed to have commenced business on the date the sole proprietorship or partnership commenced business, provided such date is prior to that on which the taxpayer itself commenced business, and to have been in existence and to have had taxable years, as determined under subparagraph (4) of this paragraph, during all of such prior period.

(8) Section 430 (e) (2) (B) (iv) provides that the three clauses in section 430 (e) (2) (B) (i) (ii), and (iii) may be applied several times to determine when the taxpayer commenced business and what are its first five taxable years. Thus, if the taxpayer under section 430 (e) (2) (B) (iii) for example, is deemed to have commenced business on the date Corporation A commenced business and to have been in existence and to have had taxable years during the period Corporation A was in existence, and if Corporation A under section 430 (e) (2) (B) (i) in turn would be deemed to have commenced business on the date Corporation B had commenced business and to have been in existence and to have had taxable years during the period Corporation B was in existence, then the taxpayer, for purposes of section 430 (e) and of this paragraph, shall be deemed to have commenced business on the date Corporation B commenced business and to have been in existence and to have had taxable years during the entire period beginning with the date Corporation B came into existence. The taxpayer's first five taxable years accordingly will be determined, under the provisions of subparagraph (4) of this paragraph, by reference to the date on which Corporation B came into existence. It is immaterial that the taxpayer had no direct relationship with Corporation B. It is sufficient that Corporation B stands indirectly in the same relationship to the taxpayer as if it were a corporation described in one of the three clauses in section 430 (e) (2) (B) (i) (ii) or (iii) It is immaterial which of the clauses in section 430 (e) (2) (B) (i), (ii) and (iii) are to be applied, or how many times they are to be applied, or in what order. The taxpayer shall be considered to have commenced business and its first five taxable years will be determined by reference to that corporation which first came into existence and commenced business and with which the taxpayer directly or indirectly stands in a relationship described in any of the three clauses in section 430 (e) (2) (B) (i), (ii) or (iii)

(9) If as of the beginning of December 1, 1950, the adjusted basis for determining gain upon the sale or exchange of the aggregate assets which had been acquired prior to that date by the taxpayer in one or more transactions described in section 430 (e) (2) (B) (i) or in section 430 (e) (2) (B) (iii) (or acquired in the ordinary course of business in replacement of such assets) and which were held by it at such time constituted less than 20 percent of the adjusted basis for determining gain upon sale or exchange of all the assets held by the taxpayer at such time, then such transactions shall be disregarded in determining the date as of which the taxpayer shall be considered to have commenced business and also in determining the first five taxable years of the taxpayer. The provisions of this subparagraph are applicable only to transactions which occurred prior to December 1, 1950, but have no application to any transaction which occurred on or after December 1, 1950.

(10) The maximum excess-profits tax provided in section 430 (e) (1) and in this paragraph shall not be available to a taxpayer which derives more than 50 percent of its gross income (determined without regard to dividends and without regard to gains from sales or exchanges of capital assets) for the taxable year for which the excess profits tax is being determined from contracts or subcontracts to which the provisions of Title I of the Renegotiation Act of 1951 (or the provisions of any prior renegotiation act) are applicable. In determining whether the taxpayer has derived more than 50 percent of its gross income in any taxable year from contracts or subcontracts which are subject to renegotiation, all income from contracts or subcontracts which are subject to renegotiation under the applicable renegotiation act and the regulations promulgated thereunder with respect to such year must be taken into account without regard to whether a particular contract or subcontract is in fact renegotiated. The determination whether a taxpayer has derived more than 50 percent of its gross income in any taxable year from contracts and subcontracts which are subject to renegotiation, however, shall be made without regard to the provisions of the Renegotiation Act of 1951 which provide that receipts and accruals of $250,000 or less in any taxable year shall not be renegotiated. If a taxpayer, for example, had gross income for the taxable year of $200,000 of which $150,000 was derived from a contract of a type which is subject to renegotiation under Title I of the Renegotiation Act of 1951 (assuming that the receipts and accruals in respect of which such $150,000 was derived were $250,000 or less) such taxpayer would not be eligible for such taxable year for the benefits of the maximum excess profits tax provided in section 430 (e) (1) since 75 percent of its gross income for such taxable year was derived from a contract of a type that is subject to renegotiation under Title I of the Renegotiation Act of 1951 even though the receipts and accruals from such contract in fact are not renegotiated under the provisions of such act. In determining whether the taxpayer has derived more than 50 percent of its gross income in any taxable year from contracts or subcontracts which are subject to renegotiation, the taxpayer's total gross income for the taxable year and also its income from contracts or subcontracts which are subject to renegotiation shall each be computed after taking into account the effect of any renegotiation previously effected with respect to such year. In filing its return, however, the taxpayer shall make such determination without regard to any renegotiation not previously effected with respect to such year. If a subsequent renegotiation with respect to such year makes the taxpayer eligible for the benefits of the maximum excess profits tax provided in section 430 (e) (1), it may within the applicable period of limitations file a claim for credit or refund of the overpayment, if any, result-

ing from the application of such maximum excess profits tax provisions.

(53 Stat. 32; 26 U. S. C. 62)

[SEAL] T. COLEMAN ANDREWS,
Commissioner of Internal Revenue.

Approved: March 16, 1953.

M. B. FOLSOM,
Acting Secretary of the Treasury.

[F. R. Doc. 53-2465; Filed, Mar. 19, 1953; 8:51 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter VI—National Production Authority, Department of Commerce

[NPA Rules of Practice 1, Revised March 17, 1953]

RP 1—RULES OF PRACTICE BEFORE HEARING COMMISSIONERS

These revised rules are found necessary and appropriate to promote the national defense and are issued pursuant to the authority granted by the Defense Production Act of 1950, as amended and extended by Pub. Law 96, 82d Cong., and Pub. Law 429, 82d Cong., and NPA General Administrative Order 16-06, July 21, 1951 (16 F. R. 8628) Consultation with industry representatives in advance of the issuance of these revised rules has been rendered impracticable by the fact that the rules apply to all trades and industries.

These rules of practice revise NPA Rules of Practice 1 as last revised September 8, 1952 (17 F R. 8156) As revised, NPA Rules of Practice 1 reads as follows.

REGULATORY PROVISIONS

Sec.
1. Scope of rules.
2. Hearings in adversary proceedings.
3. Appeals from orders.
4. Notice to parties.
5. Stays pending appeals.
6. Temporary suspension orders and consent orders.

AUTHORITY: Sections 1 to 6 issued under sec. 704, 64 Stat. 816, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2154. Interpret or apply sec. 101, 64 Stat. 799, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2071; sec. 101, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp; sec. 2 E. O. 10200, Jan. 3, 1951, 16 F. R. 61; 3 CFR, 1951 Supp., secs. 402, 405, E. O. 10281, Aug. 28, 1951, 16 F. R. 8789; 3 CFR, 1951 Supp.

SECTION 1. *Scope of rules.* (a) These general rules govern the procedure in administrative adversary proceedings before National Production Authority hearing commissioners. They shall be construed to secure simplicity in procedure, fairness in administration, and the just, speedy, and inexpensive determination of every proceeding.

(b) The principal office of the Chief Hearing Commissioner is at Washington, D. C. All communications to him should be addressed to the Chief Hearing Commissioner, National Production Authority, Washington 25, D. C., unless otherwise specifically directed.

(c) All proceedings had under these rules shall be open to the public and the press.

SEC. 2. *Hearings in adversary proceedings.* (a) Administrative adversary proceedings are commenced by the filing with the Chief Hearing Commissioner of a statement of charges in letter or telegram form, duly executed by the General Counsel of the National Production Authority. The Chief Hearing Commissioner shall, in each case, be provided with a sufficient number of executed copies of the statement of charges for service thereof on each respondent plus three for the use of the Chief Hearing Commissioner and the hearing commissioner. The statement of charges shall show the name and address of the NPA attorney or attorneys who will appear for the National Production Authority. Such attorney or attorneys shall be deemed to be counsel of record in connection with the giving of notices and the service of documents in the proceedings.

(b) The statement of charges shall set forth the specific violations charged and shall contain a request for administrative action for the correction thereof.

(c) Following receipt of the statement of charges, the Chief Hearing Commissioner will forthwith designate a commissioner to hear the matter. The Chief Hearing Commissioner will also transmit the statement of charges to each of the respondents by registered mail (return receipt requested) or by telegram. If transmission is by telegram, an executed copy of the statement of charges will concurrently be transmitted by registered mail (return receipt requested) Accompanying the mailed copy of the statement of charges will be a copy of NPA Rules of Practice and a notice containing the following:

(1) The name and address of the commissioner designated to hear the matter.

(2) A statement directing the respondent's attention to the provisions hereof concerning his right to file an answer within the period limited herein.

(3) A statement notifying the respondent of his right to appear at a hearing on a date and at a place to be fixed by the hearing commissioner when the charges will be considered.

(4) A statement advising the respondent of the importance of presenting in defense or explanation all facts and circumstances bearing on his alleged violations.

(d) The Chief Hearing Commissioner shall furnish to the hearing commissioner two copies of the statement of charges and a statement of the date and method of transmission thereof to the respondent. The Chief Hearing Commissioner will furnish to counsel of record for the National Production Authority copies of the notice to the respondent referred to in the preceding paragraph and a copy of the order of reference to the hearing commissioner.

(e) In the event the respondent desires to contest the charges, he shall, within 10 calendar days from the date of receipt by him of the statement of charges, file an answer with the hearing commissioner designated to hear the matter. The hearing commissioner may, for good cause shown, extend the time for filing the answer. He shall also fix the date and place of hearing and may, for good cause shown, extend the time or change the place of hearing. The answer shall contain a concise statement of the facts which constitute the respondent's ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the statement of charges unless respondent is without knowledge, in which case respondent shall so state. The original and two copies of the answer shall be filed with the hearing commissioner. The originals of all answers, briefs, motions, and other documents shall be signed in ink by the respondent or his duly authorized attorney at law. Where the respondent is a corporation, the originals of said documents shall be signed under the corporate name by a duly authorized official of such corporation or by its attorney. Where the respondent is an association, the originals of said documents shall be signed under the association name for said association by a duly authorized official of such association or by its attorney. An answer will show the office and post office address of respondent or his attorney. Execution of the answer by a respondent or by an attorney for a respondent in accordance herewith shall constitute an appearance by such party or counsel. The requirements of section 4 of these rules as to notice shall be observed by such party or counsel, and such party or counsel shall thereupon be deemed to be a party or counsel of record for the purpose of receiving notices under section 4 of these rules. Notices of appearance may also be filed prior or subsequent to the filing of the answer, with like result.

(f) Upon the filing of the answer, or at the expiration of the time for the filing thereof if no answer is filed, the hearing commissioner shall set the matter down for hearing. He shall give notice of the time and place of the hearing to all counsel of record, and to such parties as are not represented by counsel of record. If no answer is filed, the hearing commissioner shall take action on the charges without further notice to the respondent. Each charge contained in the statement of charges shall be deemed to be denied unless the charge is specifically admitted by the respondent.

(g) At the close of the reception of evidence, or within a reasonable time thereafter fixed by the hearing commissioner, the parties may file for his consideration their proposed findings and conclusions, together with supporting briefs. Upon request of either party, oral argument thereon may be allowed by the hearing commissioner. Arguments bearing on the policy embodied in the orders or regulations with respect to which violation has been charged will not be considered.

(h) All hearings shall be stenographically reported under supervision of the hearing commissioner. The transcript of the official reporter shall be made a part of the record and shall constitute the sole official transcript of the proceeding. The delivery of transcripts contracted for by the National Production Authority covering hearings held throughout the United States, must be made to the hearing commissioner who will assume responsibility for the distribution of such copies after delivery. Transcripts may be supplied to respondents and to the public by the official reporter at rates not to exceed the maximum rates fixed by contract between the National Production Authority and the reporter.

(i) The hearing commissioner will issue findings and conclusions, and an order of disposition in each case. All orders of disposition shall be subject to appeal by the respondent or by the General Counsel of the National Production Authority.

(j) The hearing commissioner shall deliver a copy of his findings and conclusions, and an order of disposition, to each party to the proceedings.

(k) Where the hearing commissioner concludes that the facts found constitute:

(1) The acquisition, possession, production, use, or disposition by a respondent of materials or facilities in an amount or in a manner not permitted by the National Production Authority regulations, orders, or directives; or

(2) A material misrepresentation by a respondent or in his behalf, to the National Production Authority, or to an authorized agency thereof, in any matter within the jurisdiction of the National Production Authority relevant to the allocation or distribution of materials or facilities; or

(3) Any other violations by a respondent of the National Production Authority regulations, orders, or directives relevant to the allocation or distribution of materials or facilities,

he may issue a suspension order which may:

(4) Withdraw or withhold priority assistance from a respondent;

(5) Withdraw or withhold allocations or allotments of materials or facilities from a respondent;

(6) Prohibit or restrict a respondent in the acquisition, possession, production, use, or disposition of materials or facilities;

(7) Otherwise require compliance with the provisions of Title I of the Defense Production Act or with regulations, orders, or directives of the National Production Authority.

(l) The findings and conclusions and order of disposition of the hearing commissioner, together with the record, shall be filed in duplicate with the Chief Hearing Commissioner. One set of the foregoing documents shall be retained by the Chief Hearing Commissioner as the docket in the case concerned. The other set shall be transmitted to the General Counsel.

(m) Where the hearing commissioner concludes that the facts found do not constitute violations as set forth in paragraph (k) (1) (k) (2), or (k) (3) of this section, he will so find and will close the case by issuing an appropriate order of disposition.

(n) After a matter has been referred to a hearing commissioner and before he has issued an order of disposition with respect thereto, all motions and other pleadings shall be filed with such hearing commissioner, who shall take jurisdiction thereof insofar as they lie within his jurisdiction and may dispose of them on such notice and terms as he may fix. An original and two copies of such motion or other pleading shall be so filed.

(o) Upon the issuance by a hearing commissioner of an order of disposition, his jurisdiction over the matter terminates. Thereafter any motions or other pleadings concerning the same matter shall be addressed to and filed with the Chief Hearing Commissioner, who may in his discretion dispose of the same or may refer them to his deputy, to the hearing commissioner who entered the order of disposition, or to another hearing commissioner. When an order of disposition is entered by a hearing commissioner after reference to him of such a matter by the Chief Hearing Commissioner, an appeal with respect to such order of disposition is governed by the provisions of section 3 of these rules.

(p) In any matter before a hearing commissioner, he shall, at the instance of either party, issue subpoenas requiring the attendance of witnesses for submission of testimony or for the production of documentary evidence relevant to the issues in such matter. Where the application for subpoena is for the production of documentary evidence, such application shall specify with reasonable particularity the books, papers, or documents desired.

(q) Witnesses under subpoena shall be paid the same fees and mileage as are paid witnesses in the courts of the United States. Witnesses whose depositions are taken, and the persons taking such depositions, shall severally be entitled to the same fees as are paid for like services in the courts of the United States. Witness fees and mileage, and fees for depositions, shall be paid by the party at whose instance witnesses appear.

SEC. 3. *Appeals from orders.* (a) Any party to a proceeding affected by the provisions of an order of disposition issued under section 2 (i) of these rules may appeal from any or all of the provisions thereof to the Chief Hearing Commissioner. Upon appeal from an order of disposition, interlocutory rulings and orders shall be reviewed, but such interlocutory rulings or orders shall not be subject to appeal or review prior to the entry of an order of disposition.

(b) The National Production Authority as well as the respondent shall have the right of appeal hereunder.

(c) An appeal shall be initiated by the filing of an original and two copies of a notice of intention to appeal with the Chief Hearing Commissioner within 10 calendar days from the date of service of an order of disposition upon the appellant. An original and two copies of an appeal brief shall be filed with the Chief Hearing Commissioner within 20 calendar days from the date of service of such order of disposition upon the appellant. The appeal brief shall set forth points and arguments advanced by appellant in opposition to such order and the findings and conclusions. Arguments bearing on the policy embodied in the orders or regulations which respondent has been found to have violated will not be considered. Within the time limits above recited, the Chief Hearing Commissioner, or his deputy, may, for good cause shown, extend the time for filing of notice of intention to appeal and the time for filing of an appeal brief.

(d) Within 10 calendar days after the filing of an appeal brief, the adverse party may file with the Chief Hearing Commissioner an original and two copies of a reply thereto.

(e) The Chief Hearing Commissioner, or his deputy, may permit the parties to appear and make oral presentation of the matter of appeal. Parties will be given notice of the time and place of hearing.

(f) The Chief Hearing Commissioner, or his deputy, shall hear an appeal which he may either grant or deny in whole or in part, and his decision thereon shall be final; or he may designate an appellate commissioner to hear an appeal. The appellate commissioner so designated will recommend action to the Chief Hearing Commissioner or, where authorized by the Chief Hearing Commissioner or his deputy, he will either grant or deny the appeal in whole or in part, and his decision thereon shall be final.

(g) The Chief Hearing Commissioner, or the appellate commissioner designated to decide an appeal, will give notice to the parties of his decision.

SEC. 4. *Notice to parties.* (a) Upon the filing of an appearance, answer, or any pleading or brief subsequent thereto, including all pleadings and briefs in appellate proceedings, the party filing the same shall transmit copies thereof to all other counsel of record and to such parties as are not represented by counsel of record, and shall simultaneously notify such other parties or counsel of the time and place of filing thereof by mailing a letter containing such information, postage prepaid, enclosing a copy of such appearance, pleading, or brief to each such party or counsel. Attached to the original appearance, answer, or other pleading or brief shall be a certificate in the following form:

I certify that I have given notice of the filing of the within appearance (pleading, brief), by mailing on ---------- (date), postage prepaid, to ----------, being all the parties to this proceeding, or their counsel of record, a letter (letters) containing such information and enclosing a copy (copies) thereof.

Signature ----------

(b) Failure to comply with the requirements of notice of filing of an appearance, pleading, or brief as herein set forth shall constitute a basis for the granting of a motion to strike such appearance, pleading, or brief or for such other relief as may be appropriate.

SEC. 5. *Stays pending appeals.* After the initiation of an appeal by a respondent, the Chief Hearing Commissioner, or

his deputy, may, after notice to the General Counsel of the National Production Authority who shall have an opportunity to be heard thereon, stay the provisions of the order appealed from pending disposition of the appeal. Such a stay will be granted only upon a showing of irreparable harm. An application for a stay must be made in writing to the Chief Hearing Commissioner.

SEC. 6. *Temporary suspension orders and consent orders.* (a) Upon application of the General Counsel, and on showing of irreparable harm, the Chief Hearing Commissioner, or his deputy, may in his discretion at any time issue a temporary suspension order. In any such case the application will be accompanied by a statement of charges. Whenever a temporary suspension order is issued without notice to the respondent and opportunity to be heard, the respondent will be promptly advised of the issuance of such order and informed of the charges against him and of his right to be heard thereon and on the continuance in force of the temporary suspension order pending issuance of an order of disposition. A motion to dissolve a temporary suspension order shall be heard by the Chief Hearing Commissioner, or his deputy, upon such notice as may be fixed. A case in which a temporary suspension order has been issued and is outstanding shall be referred forthwith to a hearing commissioner and shall be heard and decided on the merits as soon as practicable. Except as provided in this paragraph, following the issuance of a temporary suspension order, the matter will otherwise proceed in accordance with the other provisions of these rules.

(b) The Chief Hearing Commissioner, or his deputy, may, in lieu of the procedure prescribed in section 2 of these rules, upon the application of the General Counsel and consent of a respondent, issue findings, conclusions, and an order of disposition. The Chief Hearing Commissioner, or his deputy, may likewise, upon such application and consent, or upon notice and hearing, issue specific exceptions from, or authorizations under, suspension orders.

(c) The Chief Hearing Commissioner, or his deputy, may also, at any time, after notice to the General Counsel who shall be given an opportunity to be heard thereon, revoke or modify any suspension order by diminishing the period of suspension or the restrictions imposed though no appeal from the order has been taken by the respondent.

These revised rules shall take effect March 17, 1953.

Promulgated at Washington, D. C. March 17, 1953.

NATIONAL PRODUCTION AUTHORITY,
By MORRIS R. BEVINGTON,
Acting Chief Hearing Commissioner

[F. R. Doc. 53-2527; Filed, Mar. 19, 1953; 11:31 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR Part 971]

[Docket No. AO-175-A10]

HANDLING OF MILK IN DAYTON-SPRINGFIELD, OHIO, MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED AMENDMENT TO TENTATIVE MARKETING AGREEMENT, AND TO ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed amendment to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Dayton-Springfield, Ohio, marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., not later than the close of business the 5th day after publication of this decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. A hearing was conducted at Dayton, Ohio, on January 6-7, 1953, pursuant to notice thereof which was issued on December 29, 1952 (18 F. R. 46).

The material issues presented on the record relate to:

1. The pricing of Class I milk;
2. The pricing of Class III milk;
3. Seasonal variation in returns to producers;
4. The producer butterfat differential;
5. Dates on which payments are required and rate of advance payment to producers;
6. Shrinkage allowance on transferred milk and on other source milk;
7. Other source milk which a cooperative association does not physically handle but causes to be delivered to a handler; and
8. Powers of the market administrator.

Findings and conclusions. The following findings and conclusions are based upon the evidence submitted at the hearing and the record thereof.

In making these findings and reaching these conclusions all facts and data contained in the following material have been officially noticed:

1. Announcement of class prices for December 1952; Dayton-Springfield, Ohio, Marketing Area, Order No. 71, dated January 5, 1953; issued by Fred W Issler, Market Administrator.

2. Announcement of class prices for January 1953; Dayton-Springfield, Ohio, Marketing Area, Order No. 71, dated February 4, 1953; issued by Fred W Issler, Market Administrator.

3. Computation of uniform price; Date: December 1952; Dayton-Springfield, Ohio, Marketing Area, Order No. 71, issued by Fred W Issler, Market Administrator.

4. Computation of uniform price; Date: January 1953; Dayton-Springfield, Ohio, Marketing Area, Order No. 71, issued by Fred W Issler, Market Administrator.

5. Prices; December 1952; Cincinnati, Ohio, Milk Marketing Area, Federal Order No. 65; dated January 6, 1953; issued by Fred W Issler, Market Administrator.

6. Prices; January 1953; Cincinnati, Ohio, Milk Marketing Area, Federal Order No. 65; dated February 5, 1953; issued by Fred W Issler, Market Administrator.

7. Uniform price computation; December 1952; Cincinnati, Ohio, Milk Marketing Area, Federal Order No. 65.

8. Uniform price computation; January 1953; Cincinnati, Ohio, Milk Marketing Area, Federal Order No. 65.

Copies of the above material have been widely distributed to interested persons.

Copies of the first four announcements listed above may be obtained from Fred W Issler, Market Administrator, 434 Third National Bank Building, Dayton 2, Ohio. Copies of the last four announcements listed above may be obtained from Fred W Issler, Market Administrator, Post Office Box 1195, Cincinnati 1, Ohio.

Interested persons who wish to show that any of the above material is inaccurate or is erroneously noticed may do so in their exceptions to this decision.

Pricing of Class I milk. No change should be made in the general level of the price for Class I milk, but the seasonal pattern should be changed to conform with the arrangement for seasonal variations in returns to producers proposed herein—specifically, $1.20 should be added to the basic formula price each month. The provisions for a supply-demand adjustment should remain unchanged except that (1) the seasonal variation in the amount of the supply-demand adjustment should be eliminated; and (2) the limitations presently applicable to such adjustments during July, August, September, December, January, and February should be removed.

Separate Class I, Class II, and uniform prices for Grade A milk and non-Grade A milk are no longer necessary. All

producer milk supplies for the market are now Grade A milk. Therefore, the computation of prices for non-Grade A milk can be eliminated.

Supplies of producer milk for the Dayton-Springfield market have been adequate to meet all Class I and Class II uses since February 1952. From May through November 1952 the relationship between market supplies and requirements was in close adjustment except for normal seasonal variation. In December 1952 and January 1953 market supplies increased substantially more than the normal seasonal increase and accordingly were considerably greater in relation to market requirements than the normal seasonal reserves. This increase in market supplies has occurred concurrently with a considerable although somewhat smaller increase in total milk production in the United States. Whether this increase in market supplies represents a trend or merely a short term fluctuation in supplies cannot be determined at this time. In any event, it appears from the relationship between market supplies and requirements that in the last several months Class I prices have been high enough to result in uniform prices at levels sufficient to insure adequate supplies of milk for the market.

Producer representatives sought justification for their proposed increase in the Class I price in the fact that Dayton-Springfield uniform prices have been low in relation to prices received by producers supplying certain other markets which compete with Dayton-Springfield for milk supplies, notably Cincinnati. The relationship between Dayton-Springfield uniform prices and prices received by producers supplying Cincinnati should be considered in establishing Dayton-Springfield Class I prices only to the extent that such prices in the Cincinnati market affect supplies for the Dayton-Springfield market. Inter-market prices relationships, however, cannot be relied upon in determining Class I prices to the exclusion of other considerations.

During the last four years the relationship between Dayton-Springfield and Cincinnati prices showed no perceptible change until October 1952. Since October 1952 the Cincinnati prices have been higher in relation to the Dayton-Springfield price than at any other time during these four years. Indications are that in February 1953 the Cincinnati uniform price will continue to exceed the Dayton-Springfield uniform price by a considerable amount; however, in March the Cincinnati Class I price will decline 18 cents in relation to the Dayton Class I price and the differences between the uniform prices in March will be less than during recent months. Indications are that the relationship between Dayton-Springfield and Cincinnati uniform prices during the next several months will be nearer to the historical relationship than the relationship which has prevailed since October 1952.

Apparently little or no shifting of supplies from Dayton-Springfield to Cincinnati or other markets has yet occurred. As noted above, market supplies in the last month or two have been more than adequate. Some shifting of supplies away from Dayton-Springfield might result if the price relationship of recent months between Dayton-Springfield and Cincinnati continued for several months; but with the prospect that beginning in March 1953 Cincinnati uniform prices will decline in relation to Dayton-Springfield uniform prices, any significant shifting of supplies away from the Dayton-Springfield market appears unlikely. Retention of the supply-demand adjustment provisions as herein proposed will assure that in the event a significant reduction in supplies does eventuate an automatic price adjustment will be made.

Sufficient basis cannot be found for discontinuing the supply-demand adjustment as proposed at the hearing.

The present question of whether the recent increases in supply are short-term or whether they indicate a trend toward increasing supplies points up the need for a supply-demand adjustment. With a supply-demand adjustment, regardless of whether present supply conditions prove to be temporary or permanent, prices will be automatically adjusted accordingly.

The decision to provide for a more accentuated seasonality in uniform prices payable to producers by the introduction of a method of deductions and repayments will result in such variation in uniform prices seasonally that indications by the supply-demand adjustment of an excess of milk in the spring or a shortage in the fall and winter will not indicate a need for the greater change (downward in the spring and upward in the fall) in the prices which have heretofore been provided in association with given departures from the normal supply-demand relationship. Consequently the variation in the supply-demand adjustment applicable for the different seasons of the year may be eliminated and a system of differentials which is uniform throughout the year (for each percentage of deviation from normal) may be substituted. It is therefore concluded that the supply-demand adjustment in each month should be computed in the same manner presently used for January, February, March, August, and September.

The limitations presently applicable to the amount of the supply-demand adjustment during July, August, September, December, January, and February have not yet affected the amount of the supply-demand adjustment in any month; however, conceivably such limitations could result in prices not consistent with market conditions and could prevent timely price adjustments. The need for these limitations will be reduced somewhat by the removal of the seasonal variation in the supply-demand adjustment.

In computing the price per hundredweight of butterfat in Class I milk, the average price of butter (as presently computed) should be multiplied by 130 rather than 135. Such a reduction in the price of Class I butterfat will cause a complementary increase in the price of skim milk in Class I milk.

Analysis of the market requirements (for Class I and Class II uses) for butterfat and skim milk and the butterfat and skim milk content of producer milk shows that in the last six years butterfat supplies in producer milk have been in better adjustment with butterfat requirements than skim milk supplies in producer milk have been to skim milk requirements in 49 of the 72 months; however, in only 4 of the 12 Novembers and Decembers in this 6 year period has this been so. The fact that the butterfat content of producer milk varies seasonally through narrower limits than the skim milk content of producer milk explains this apparent conflict in the comparisons. In November and December when supplies of producer milk are lowest in relation to market needs pricing should be such that supplies of producer milk and the components of butterfat and skim milk are in close alignment with market requirements. Since market data indicate that supplies of butterfat during these months are relatively greater than supplies of skim milk, some reduction in the price of butterfat and a complementary increase in the price of skim milk should tend to bring market requirements for butterfat and skim milk into closer alignment with the butterfat and skim milk content of producer milk. To the extent that the lower price for butterfat and the higher price for skim milk is reflected in returns to producers, the butterfat content of producer milk will tend to decline.

The price per hundredweight of butterfat in Class III milk should be reduced to the average price of butter multiplied by 125 in order to maintain the present relationship between prices for Class I and Class II butterfat.

Pricing of Class III milk. The price per hundredweight of butterfat in Class III milk should be the average price of butter multiplied by 120 each month, except that during March through August the price of butterfat made into butter should be $5.00 per hundredweight less than the price for other Class III butterfat. This will result in a reduction of about $3.35 per hundredweight of butterfat (or about 11 cents per hundredweight of milk) in the butterfat value of Class III milk other than milk used for butter during each of the months of August through March; a reduction of $1.40 per hundredweight of butterfat (4.9 cents per hundredweight of milk) in the butterfat value of Class III milk used for butter during each of the months of March through August; and an increase of $3.60 per hundredweight of butterfat (12.6 cents per hundredweight of milk) in the butterfat value of Class III milk used for butter during each of the months of September through February.

A reduction of 20 cents per hundredweight of skim milk (19.3 cents per hundredweight of milk) should be made in the skim milk value of Class III milk during August and each of the months of October through March.

With a market-wide pooling arrangement such as is used in the Dayton-Springfield order, handlers may move reserve supplies of milk into those outlets which yield the greatest net returns to handlers without regard to whether such outlets will yield the greatest re-

turns to producers. The relationship between the price of Class III butterfat used to make butter and other Class III butterfat should be such that the net returns to handlers for butterfat made into butter is not greater than the net returns for butterfat made into other Class III products.

Pursuant to the present Class III pricing provisions, the price of butterfat made into butter is 3.6 cents per pound less than the price of butterfat made into other Class III products during April, May, June, and July, and about 7 cents per pound less in all other months. This results from a seasonally higher price during August through March for Class III butterfat other than that made into butter with no corresponding higher price for butterfat made into butter.

Evidence in the record indicates that the gross return which handlers can obtain for products other than butter made from Class III milk during August through March is probably less in relation to gross returns for such products during April through July than the seasonal increase in the Class III price. Accordingly, under the present pricing provisions net returns to handlers for butterfat made into butter during August through March is higher in relation to net returns to handlers for other Class III butterfat than during April, May, June, and July and there is insufficient price incentive for handlers to seek outlets other than butter for Class III butterfat.

Market statistics show that in each of the last four years except 1950 the proportion of the total Class III butterfat which was made into butter was higher during the eight months of January February, March, August, September, October, November, and December than during the four months of April, May, June, and July when the volume of Class III milk was greatest. In 1952 outlets were found in June for 288,535 pounds of butterfat in Class III products other than butter but in October only 89,109 pounds of Class III butterfat were disposed of for products other than butter and the volume of Class III butterfat made into butter was greater in October than in June. It is recognized that some of the Class III outlets, notably ice cream, are highly seasonal; but it is doubtful if all Class III outlets other than butter would be seasonal to the extent of the experience of recent years with more appropriate price relationships between butterfat made into butter and other Class III butterfat.

The reduction herein proposed during August through March for Class III butterfat other than that made into butter and for Class III skim milk during January, February, March, August, October, November and December should make producer milk more competitive with other milk for ice cream and other products in which large quantities of non-producer milk are used. The increase herein proposed during September through February for butterfat made into butter should afford a considerable incentive for handlers to seek outlets other than butter. The reduction herein proposed during March through August for butterfat made into butter will result in a price which appears to be more in line with the value to handlers of butterfat made into butter. Considerable quantities of butter have been made during these months and it appears likely that continued use of some butterfat in butter will be necessary during those months.

Over the past two years the Class III price changes herein proposed would have resulted in prices which averaged 7 cents lower during March through August and 17 cents higher during the other months than the average of the prices paid at the 18 locations in Wisconsin and Michigan which are used in computing the basic formula price; 1 cent lower during March through August and 22 cents higher during the other months than the average price paid for milk by 10 condensaries in Ohio; and 17 cents lower during March through August and 29 cents higher during the other months than the average of the prices paid by creameries in Ohio for milk used in making butter and creamery by-products. These comparisons indicate that the Class III pricing provisions herein proposed should result in prices which are in fairly close alignment with prices paid for milk by manufacturing plants not subject to milk marketing orders.

Seasonal variation in returns to producers. The seasonal variation in returns to producers should be widened and should be graduated over more months.

In recent years changes in seasonal variation in returns to Dayton-Springfield producers have been made primarily through the Class I and Class II prices with the major seasonal changes in April and August. It was proposed that all seasonal variation in the Class I and Class II prices except the seasonal variation in the basic formula price be removed and that the desired seasonal variation in returns to producers be effected by retaining until October, November, and December a portion of the value paid by handlers for milk delivered during April, May, June, and July. This method of seasonal variation appears appropriate for the Dayton-Springfield market and should be adopted.

In the last seven years the seasonal variation in the supply of producer milk has narrowed considerably however, in 1952 supplies during November, the month of shortest supplies, were less than three-fourths what they were in May, the month of greatest supplies. Seasonal variation to this extent is accompanied by serious problems in disposing of the seasonal reserve supplies. Any reduction in the seasonality of supplies is desirable because it reduces the problems of disposing of these seasonal reserves. Wider seasonal variation in returns to producers should provide further encouragement for producers to increase their production when returns are high and to reduce their production when returns are low.

In some of the major markets with which Dayton competes for supplies prices paid farmers for milk have varied seasonally through wider ranges than Dayton-Springfield uniform prices. The wider seasonal variation herein proposed should result in closer relationships throughout the year between producer prices in Dayton-Springfield and competing markets.

It is concluded that the amount per hundredweight of producer milk to be retained for disbursement in October, November, and December should be 20 cents in April, 40 cents in May and June, and 30 cents in July. The total amount so retained should be divided into three equal parts with one part to be included in the moneys to be distributed among producers for each of the months of October, November, and December. This will result in seasonal changes in producer returns in January, April, May July, August, and October in addition to the changes in returns resulting from seasonal variation in utilization.

Producer butterfat differential. The producer butterfat differential should be reduced during the months of August through March to the same level in relation to the average price of butter as it is during April, May, June, and July—specifically the producer butterfat differential should be the average price of butter multiplied by .12 each month of the year. At the present time the average price of butter is multiplied by .125 during each of the months of August through March.

It has been found above that during October, November, and December, the months of shortest supplies, butterfat supplies in relation to needs are greater than skim milk supplies in relation to needs. Better balance between butterfat and skim milk content of producer milk and the respective needs for butterfat and skim milk can be obtained by increasing the needs for butterfat or by reducing the supplies of butterfat or by a combination of both. Price reductions proposed herein for Class I and Class II butterfat should tend to increase demand for butterfat. A reduction in the producer butterfat differential should tend to reduce the supply of butterfat because the price paid producers will be reduced for producers whose average butterfat content of milk exceeds 3.5 percent and will be increased for producers whose average butterfat content of milk is less than 3.5 percent.

The producer butterfat differential in Cincinnati has been considerably lower than the Dayton-Springfield butterfat differential since 1945. Prior to 1945 they were about the same. From 1946 to 1951 the average butterfat content of producer milk in Cincinnati dropped from 4.095 to 3.934 percent. During this period the average butterfat content of producer milk in the Dayton-Springfield market dropped only slightly from 4.03 to 3.96 percent. These comparisons indicate the possibility that some producers whose butterfat content is low may have shifted from the Dayton-Springfield market to Cincinnati.

The idea was expressed at the hearing that the producer butterfat differential should be based upon the value of butterfat to handlers. It cannot be denied that this idea has considerable merit. Conclusions in this decision pursue this idea to some extent—that is, a reduction in the producer butterfat differential would be accompanied by a

reduction in the price of butterfat to handlers.

The complete adoption of this idea is not feasible at this time because of the competitive effects of Cincinnati and other markets.

Payment dates and rate of advance payment. The dates on which handlers are required to make payments to producers or cooperative associations should not be changed.

At present the time intervening between the announcement of the uniform price and the date upon which handlers are required to make payment for milk is four days on payments to cooperative associations and five days on payments to producers. A proposal to advance payment dates two days was considered. Such advance of payment date apparently would cause some hardship on handlers when a week-end or holiday falls within the intervening time between announcement of the uniform price and the date of payment. Reducing this intervening time would also present new problems of scheduling payments into and out of the producer settlement fund. Testimony in the record indicates that handlers are presently cooperating with the cooperative association to make payments earlier than the dates now prescribed by the order when it is feasible.

The rate of advance or partial payments should be related quarterly to uniform price in the preceding month. The order presently requires a partial payment of at least $2.00 per hundredweight of milk. The level of uniform prices has increased substantially since this rate was adopted. Handlers have been paying a higher rate for some time. Quarterly changes in the rate of partial payment should result in keeping the rate in line with current price levels, but will prevent monthly changes and certain problems which might be associated with frequent changes in the rate.

The following schedule of partial payments in relation to the uniform price in the preceding month will maintain a closer relationship between partial payments and final payments and should at the same time protect handlers against the possibility of over-payment:

If the uniform price for the preceding month was—	*Rate of partial payment should be—*
Under $1.00	$0.00
$1.00–$1.99	.50
$2.00–$2.99	1.00
$3.00–$3.99	2.00
$4.00–$4.99	3.00
$5.00–$5.99	4.00
$6.00–$6.99	5.00
$7.00 or over	6.00

Shrinkage allowance. On bulk transfers of milk (in the form of milk) between handlers the receiving or transferee handler should be allowed shrinkage (in Class III) not to exceed one percent of the volume transferred, and the shrinkage allowance to the transferor handlers should be reduced accordingly.

Movement of milk via tank truck between handlers has increased considerably in recent years. In the seasons of heavy production large volumes of milk are transferred from other handlers to the cooperative association, and in the seasons of lowest production large volumes of milk are transferred from the cooperative association to other handlers. The present shrinkage provisions which allow no shrinkage (in Class III) to the receiving or transferee handler have tended to militate against the establishment of more economic handing of milk through transfers.

This change in shrinkage allowance on transferred milk is intended to apply only to milk which was physically received by one handler and then transferred to another handler without having been processed in any way.

To determine the amount of allowable shrinkage on these transfers, gross shrinkage at the transferee handler's plant and at the transferor handler's plant should be computed. At the transferee handler's plant the transferred volume should be multiplied by 0.4, and the gross shrinkage should then be prorated between this result and all other volumes on which shrinkage is allowed at that plant. At the transferor handler's plant the transferred volume should be multiplied by 0.6, and the gross shrinkage should then be prorated between this result and all other volumes on which shrinkage is allowed at this plant. If the shrinkage so prorated exceeds the maximum allowable shrinkage (in Class III) then shrinkage should be classified as Class III only to the extent of the maximum allowance.

In the event a handler has received other source milk on which shrinkage is allowable, there should be no maximum limit on the amount of shrinkage of such milk that may be classified as Class III after shrinkage has been prorated as explained above. The present shrinkage and allocation provisions classify excess shrinkage on other source milk as Class I and give producer milk preferential allocation to such volumes. The proposed method appears to be more equitable under prevailing market conditions.

Other source milk obtained by a cooperative association. From the evidence in the record, the cooperative association in the market appears to be effectively allocating available supplies of producer milk among handlers. When supplies of producer milk are not adequate to meet handlers' needs for milk, the cooperative association arranges supplies of other source milk to supplement producer milk supplies. In most instances these supplies of other source milk can be handled most economically by bulk movement from their source directly to the plants of handlers. However, provisions of the order for allocating classes of utilization to other source milk are such that a quantity of other source milk moved to one handler's plant would probably be classified differently than if the same quantity of other source milk were moved to another handler's plant. In order to facilitate the most economical handling of other source milk, it appears appropriate under prevailing conditions to consider other source milk which a cooperative association arranges to have delivered from its source directly to another handler's plant as having been first received by the cooperative association and then transferred to the handlers plant for allocation and classification purposes. Then classification can be established pursuant to the transfer provisions of the order.

Powers of the market administrator. The order should specifically authorize the market administrator to recommend amendments to the order. In actual practice, he has done so from time to time. Most other orders do give such authority to the market administrator.

Extension of this authority to the market administrator does not mean that the established procedure for amending an order can be circumvented. Any amendment to the order recommended by the market administrator must still be subjected to the procedural requirements of any other amendment before it can become effective.

General findings. (a) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply of and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and in the order, as amended, and as hereby proposed to be further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity, specified in a marketing agreement upon which a hearing has been held.

Rulings. All of the statements, proposed findings and conclusions, and arguments contained in the briefs filed by interested parties were carefully considered along with the evidence in the record in making the findings and reaching the conclusions herein set forth.

To the extent that the findings and conclusions contained herein are inconsistent with the findings and conclusions proposed in the briefs, the requests to make the findings or to reach the conclusions proposed in the briefs are denied on the basis of the facts found and stated herein.

Recommended marketing agreement and amendment to the order. The following amendment to the order (which amends §§ 971.5 through 971.11, 971.21, 971.40, 971.43, 971.44 (h) and (i) 971.45, 971.51 (a) and (b), 971.52 (b) 971.53 (a) and (b), 971.54, 971.60, 971.62, 971.70 through 971.73, and 971.90) is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be identical with those contained in the order, as amended, and as hereby proposed to be further amended.

It is hereby ordered, That when this recommended decision is published in the FEDERAL REGISTER, the full text of the order, as amended, and as hereby proposed to be further amended, shall be set forth below.

DEFINITIONS

§ 971.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.)

§ 971.2 *Secretary.* "Secretary" means the Secretary of Agriculture or such other officer or employee of the United States authorized to exercise the powers and to perform the duties of the said Secretary of Agriculture.

§ 971.3 *Dayton - Springfield, Ohio, marketing area.* "Dayton-Springfield, Ohio, marketing area" hereinafter called the "marketing area," means the cities of Dayton, Oakwood, and Springfield; the townships of Bath and Miami, in Greene County; the townships of Miami, Jefferson, Madison, Van Buren, Harrison, Butler, Mad River, and Washington, in Montgomery County; and German township in Clark County; all in the State of Ohio.

§ 971.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 971.5 *Producer* "Producer" means any person who produces, under a dairy farm inspection permit or other equivalent certification issued by the appropriate health authority in the marketing area, milk which is (a) received at a plant from which Class I milk is disposed of in the marketing area, or (b) caused by a handler to be delivered to a plant from which Class I milk is not disposed of in the marketing area.

§ 971.6 *Handler* "Handler" means (a) any person, except a person who receives other source milk only, with respect to milk (including any milk from his own farm production) received by him at a plant from which Class I milk is disposed of in the marketing area, or (b) any cooperative association, or other person included under paragraph (a) of this section, with respect to any milk produced under a dairy farm inspection permit or other equivalent certification issued by the appropriate health authority in the marketing area which such cooperative association or person causes to be delivered to a plant from which Class I milk is not disposed of in the marketing area. Milk caused to be delivered by a handler in accordance with paragraph (b) of this section shall be considered as having been received by such handler. With respect to milk caused by a handler to be delivered directly from the producer's farm to another handler, the handler to be considered as receiving such milk shall be determined by written agreement between the two handlers filed with the market administrator on or before the 5th day after the end of the first month during which it becomes effective, or in the absence of such an agreement, shall be determined by the market administrator.

§ 971.7 *Other source milk.* "Other source milk" means all skim milk and butterfat received by a handler other than in (a) milk received from producers or associations of producers, and (b) any nonfluid milk product received and disposed of in the same form.

§ 971.8 *Cooperative association.* "Cooperative association" means any cooperative association of producers which, as determined by the Secretary, has (a) its entire activities under the control of its members, and (b) meets the standards set forth in the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act."

§ 971.9 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency as may be authorized to perform the price reporting functions specified in § 971.50.

MARKET ADMINISTRATOR

§ 971.20 *Designation.* The agency for the administration of this subpart shall be a market administrator, who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by and shall be subject to removal at the discretion of the Secretary.

§ 971.21 *Powers.* The market administrator shall have the power:

(a) To administer this subpart in accordance with its terms and provisions;

(b) To receive, investigate and report to the Secretary complaints of violations of the provisions of this subpart;

(c) To make rules and regulations to effectuate the terms and provisions of this subpart; and

(d) To recommend to the Secretary amendments to this subpart.

§ 971.22 *Duties.* The market administrator, in addition to the duties hereinafter described, shall:

(a) Within 45 days following the date on which he enters upon his duties execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties as market administrator and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary.

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions of this subpart;

(c) Pay, out of the funds provided by § 971.77, (1) the cost of his bond and of the bonds of those of his employees who handle funds entrusted to the market administrator, (2) his own compensation, and (3) all other expenses, except those incurred under § 971.78, which will necessarily be incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(d) Keep such books and records as will clearly reflect the transactions provided for in this subpart, and, upon request by the Secretary, surrender the same to his successor or to such other person as the Secretary may designate;

(e) Publicly disclosed to handlers and producers, unless otherwise directly by the Secretary the name of any person who, within 2 days after the day upon which he is required to perform such acts, has not made (1) reports pursuant to § 971.30, or (2) payments pursuant to §§ 971.70, 971.71, 971.74 and 971.76;

(f) Furnish such information and verified reports as the Secretary may request, and submit his books and records to examination by the Secretary at any and all times;

(g) On or before the 12th day after the end of each month, report to each cooperative association for such month, with respect to each handler, the utilization, on a pro rata basis, of milk of producers, payment for which is to be made to such cooperative association pursuant to § 971.70; and

(h) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any person upon whose utilization the classification of milk depends.

REPORTS, RECORDS, AND FACILITIES

§ 971.30 *Monthly report of receipts and utilization.* On or before the 7th day after the end of each month, each handler shall report to the market administrator for each plant, with respect to all milk and milk products received during such month, in the detail and on forms prescribed by the latter, (a) the butterfat tests, quantities, and sources of all milk, skim milk, cream, and other milk products received; (b) the utilization thereof; and (c) such other information with respect to such receipts and utilization as the market administrator may request.

§ 971.31 *Other reports.* (a) Each handler who receives at his plant only milk from his own farm production or from other handlers shall make reports to the market administrator at such time and in such manner as the market administrator may request.

(b) On or before the 22d day after the end of each month each handler shall submit to the market administrator such handler's producer payroll for such month, which shall show (1) the total pounds of milk received from each producer and association of producers and the total pounds of butterfat contained in such milk, (2) the amount of payment to each producer and association of producers, and (3) the nature and amount of the deductions and charges involved in the payments referred to in subparagraph (2) of this paragraph.

§ 971.32 *Records and facilities.* Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business, such amounts and records of his operations and such facilities as, in the opinion of the market administrator, are necessary to verify, or to establish the correct data with respect to (a) the utilization, in whatever form of all skim milk and butterfat received; (b) the weights, samples, and tests for butterfat content of all milk and milk products previously received or utilized or currently being received or utilized; and

(c) payments to producers and associations of producers.

§ 971.33 *Retention of records.* All books and records required to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain, except that all such books and records pertaining to transactions before August 1, 1946, shall be retained until October 1, 1949: *Provided,* That if, within such three-year period or before October 1, 1949, whichever is applicable, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 971.40 *Basis of classification.* All skim milk and butterfat contained in milk, or in skim milk, cream, and other milk products received by a handler at a plant from which Class I milk is disposed of in the marketing area or caused to be delivered in the manner described in § 971.6 (b) shall be classified by the market administrator in the classes set forth in § 971.41.

§ 971.41 *Classes of utilization.* Subject to the conditions set forth in §§ 971.42 and 971.43, the classes of utilization shall be:

(a) Class I milk shall be all skim milk and butterfat (1) disposed of in fluid form (except that which was dumped or disposed of for livestock feeding) as milk, including reconstituted milk, skim milk, buttermilk, flavored milk, or flavored milk drinks; (2) used to produce concentrated milk (excluding those products commonly known as evaporated milk and condensed milk) for fluid consumption; and (3) not specifically accounted for as Class II milk or Class III milk.

(b) Class II milk shall be all skim milk and butterfat disposed of (1) in fluid form as sweet or sour cream; and (2) in fluid form as any mixture of cream and milk (or skim milk) which contains 8 percent or more but less than 18 percent of butterfat.

(c) Class III milk shall be all skim milk and butterfat specifically accounted for as (1) used to produce, or disposed of as, ice cream, ice cream mix, frozen cream, condensed milk, condensed skim milk, cottage cheese, any other milk product not specified in Class I and Class II milk, or any commercially manufactured food product; (2) having been dumped or disposed of for livestock feeding; and (3) plant shrinkage as computed pursuant to § 971.45.

§ 971.42 *Responsibility of handlers and reclassification of milk.* (a) In establishing the classification of skim milk and butterfat as required in §§ 971.41 and 971.43 the burden rests upon the handler to account for all skim milk and butterfat received by him and to prove to the market administrator that such skim milk or butterfat should not be classified as Class II milk.

(b) Any skim milk or butterfat classified in one class shall be reclassified if later used or disposed of (whether in original or other form) by a handler in another class, in accordance with such later use or disposition.

§ 971.43 *Transfers.* (a) Subject to the conditions set forth in § 971.42, skim milk or butterfat when transferred in fluid form as milk, skim milk, flavored milk, flavored milk drinks, or buttermilk, by a handler who receives milk from producers or from an association of producers shall be classified (1) in the class as agreed upon by both handlers if transferred to a handler other than as described in subparagraph (2) of this paragraph, subject to verification by the market administrator; (2) as Class I milk, if transferred to a handler who receives no milk from producers or from an association of producers other than such handler's own farm production; and (3) as Class I milk if transferred by a handler to a person other than a handler who distributes milk in fluid form or manufactures milk products, unless the market administrator is permitted to audit the records of receipts and utilization at the plant of the buyer, in which case the classification of all skim milk and butterfat received at the plant of the buyer shall be determined and the skim milk and butterfat transferred by the handler shall be allocated to the highest use remaining after subtracting, in series beginning with Class I milk, receipts of skim milk and butterfat at the plant of the buyer directly from dairy farmers who the market administrator determines constitute the regular source of supply for the plant of the buyer.

(b) Subject to the conditions set forth in § 971.42, skim milk and butterfat when transferred in fluid form as cream from a handler who receives milk from producers or from an association of producers shall be classified (1) in the class as agreed upon by both handlers if transferred to a handler other than as described in subparagraph (2) of this paragraph, subject to verification by the market administrator; (2) as Class II milk if transferred to a handler who receives no milk from producers or from an association of producers other than such handler's own farm production; and (3) as Class II milk if transferred by a handler to a person other than a handler who distributes cream in fluid form or manufactures milk products: *Provided,* That if the selling handler on or before the 7th day after the end of the month during which the transfer was made furnishes to the market administrator a statement which is signed by the buyer and the seller that such skim milk and butterfat was used as a product covered by Class I milk or Class III milk, such skim milk and butterfat shall be classified accordingly, subject to verification by the market administrator.

(c) Other source milk caused by a cooperative association to be delivered from the plant of a person not a handler to the plant of a handler other than such cooperative association shall be considered as a transfer from the cooperative association to the handler, and shall be classified accordingly pursuant to paragraphs (a) and (b) of this section and § 971.44 (j) (1) and (3) if the cooperative association and the handler operating the plant to which such other source milk was caused by the cooperative association to be delivered both so indicate in their reports filed pursuant to § 971.30.

§ 971.44 *Computation of the skim milk and butterfat in each class.* For each month the market administrator shall correct for mathematical and for other obvious errors the report submitted by each handler for such month and compute the respective amounts of skim milk and butterfat from milk of producers and of associations of producers in Class I milk, Class II milk, and Class III milk, as follows:

(a) Determine the handler's total receipts by adding together the total pounds of milk, skim milk, and cream received, and the pounds of butterfat and skim milk used to produce all other milk products received;

(b) Determine the total pounds of butterfat contained in the receipts computed pursuant to paragraph (a) of this section;

(c) Determine the total pounds of skim milk contained in the receipts computed pursuant to paragraph (a) of this section;

(d) Determine the total pounds of butterfat in Class I milk by: (1) Computing the sum of the pounds of butterfat disposed of in each of the several items of Class I milk; and (2) adding all other butterfat not specifically accounted for as Class II milk or Class III milk;

(e) Determine the total pounds of skim milk in Class I milk by: (1) Computing the sum of the pounds (not including flavoring materials) disposed of as each of the several items of Class I milk; (2) subtracting the result obtained in paragraph (d) (1) of this section; and (3) adding all other skim milk not specifically accounted for as Class II milk or Class III milk;

(f) Determine the total pounds of butterfat in Class II milk by computing the sum of the pounds of butterfat disposed of in each of the several items of Class II milk;

(g) Determine the total pounds of skim milk in Class II milk by: (1) Computing the sum of the pounds of milk, skim milk, and cream disposed of in each of the several items of Class II milk; and (2) subtracting the result obtained in paragraph (f) of this section;

(h) Determine the total pounds of butterfat in Class III milk by: (1) Computing the sum of the pounds of butterfat used to produce each of the several items of Class III milk; and (2) adding the plant shrinkage of butterfat computed pursuant to § 971.45 (c),

(i) Determine the total pounds of skim milk in Class III milk by: (1) Computing the sum of the pounds of milk, skim milk, cream, and other milk products which were used to produce each of the several items of Class III milk; (2) subtracting the result obtained in paragraph (h) (1) of this section; and (3) adding the plant shrinkage of skim milk computed pursuant to § 971.45 (c) and

(j) Determine the classification of milk received from producers and from associations of producers by:

(1) Subtracting, respectively, from the total pounds of skim milk and butterfat in each class, in sequence beginning with Class III milk; the pounds of skim milk and butterfat received as other source milk;

(2) Subtracting, respectively, from the remaining pounds of skim milk and butterfat in each class in sequence beginning with Class III milk, the pounds of skim milk and butterfat received from any handler who receives no milk from producers or from associations of producers other than such handler's own farm production;

(3) Subtracting, respectively, from the remaining pounds of skim milk and butterfat in each class, the pounds of skim milk and butterfat received from handlers other than those described in subparagraph (2) of this paragraph, and used in such class; and

(4) Subtracting, respectively, from the remaining pounds of skim milk and butterfat in each class, in sequence beginning with Class III milk, the pounds of skim milk and butterfat by which the total pounds, respectively, in all classes exceed the pounds of milk received from producers and from associations of producers.

§ 971.45 *Shrinkage.* The amount of skim milk and butterfat at each plant to be classified as Class III milk pursuant to § 971.41 (c) (3) shall be computed as follows:

(a) If the sum of the quantities of skim milk determined pursuant to § 971.44 (e) (g) and (i) equals or exceeds the quantity of skim milk determined pursuant to § 971.44 (c) no skim milk shall be classified as Class III milk pursuant to § 971.41 (c) (3) and the computations described in paragraphs (c) through (l) of this section shall not be made wtih respect to skim milk;

(b) If the sum of the quantities of butterfat determined pursuant § 971.44 (d) (f) and (h) equals or exceeds the quantity of butterfat determined pursuant § 971.44 (b) no butterfat shall be classified as Class III milk pursuant to § 971.41 (c) (3) and the computations described in paragraphs (c) through (l) of this section shall not be made with respect to butterfat;

(c) Determine gross shrinkage of skim milk by deducting the sum of the quantities of skim milk determined pursuant to § 971.44 (e) (g) and (i) from the quantity of skim milk determined pursuant to § 971.44 (c) and the gross shrinkage of butterfat by deducting the sum of the quantities of butterfat determined pursuant to § 971.44 (d), (f), and (h) from the quantity of butterfat determined pursuant to § 971.44 (b)

(d) Deduct from the quantity of butterfat and skim milk determined pursuant § 971.44 (b) and (c) respectively any skim milk and butterfat, respectively contained therein which was not physically received at the plant for which shrinkage is being computed;

(e) Deduct from the remaining quantities of butterfat and skim milk any butterfat and skim milk, respectively, contained therein which was transferred in bulk to another plant operated by a handler;

(f) Deduct from the remaining quantities of butterfat and skim milk any buterfat and skim milk; respectively, contained therein which was received in bulk from another plant operated by a handler;

(g) Deduct from the remaining quantities of butterfat and skim milk any butterfat and skim milk, respectively, contained therein which was received from another plant operated by a handler, and which was not deducted pursuant to paragraph (f) of this section;

(h) Deduct from the remaining quantities of butterfat and skim milk any butterfat and skim milk, respectively contained therein which is other source milk;

(i) Multiply the quantity of butterfat and the quantity of skim milk deducted pursuant to paragraph (e) of this section by 0.6;

(j) Multiply the quantity of butterfat and the quantity of skim milk deducted pursuant to paragraph (f) of this section by 0.4,

(k) Prorate the gross shrinkage of butterfat and skim milk determined pursuant to paragraph (c) of this section among the following: (1) The quantities of butterfat and skim milk, respectively, deducted pursuant to paragraph (h) of this section, (2) the quantities of butterfat and skim milk, respectively, remaining after making the deductions pursuant to paragraph (h) of this section, (3) the quantities of butterfat and skim milk, respectively resulting from the computations made pursuant to paragraph (1) of this section, and (4) the quantities of butterfat and skim milk, respectively resulting from the computations made pursuant to paragraph (j) of this section; and

(l) The amount of butterfat and skim milk to be classified as Class III milk pursuant to § 971.41 (c) (3) shall be the quantity of the butterfat and skim milk, respectively, prorated to the quantities of butterfat and skim milk, respectively, described in paragraph (k) (1) plus the smaller of the following:

(1) The sum of the quantities of butterfat and skim milk, respectively, prorated to the quantities of butterfat and skim milk, respectively, described in paragraph (k) (2) (3) and (4) of this section; or (2) 2½ percent of the sum of the quantities of butterfat and skim milk, respectively, described in paragraph (k) (2) (3) and (4) of this section.

MINIMUM PRICES

§ 971.50 *Basic formula price.* The basic formula price per hundredweight of milk to be used in determining the Class I milk and Class II milk prices for the month as provided by §§ 971.51 and 971.52 shall be the highest of the prices per hundredweight of milk of 3.5 percent butterfat content determined pursuant to paragraphs (a), (b), or (c) of this section:

(a) The market administrator shall compute an average of the basic (or field) prices ascertained to have been paid for milk of 3.5 percent butterfat content received during such month at the following places for which prices are reported to the market administrator by the companies listed below or by the Department of Agriculture:

Company and Location

Borden Co., Black Creek, Wis.
Borden Co., Greenville, Wis.
Borden Co., Mount Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Jefferson, Wis.
Carnation Co., Clifton, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The market administrator shall compute a price as provided below in this paragraph:

(1) Calculate the average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter during such month as reported by the Department of Agriculture for the Chicago market, and multiply such average by 6;

(2) Add 2.4 times the arithmetical average of the prices determined per pound of "Cheddars" on the Wisconsin Cheese Exchange at Plymouth, Wisconsin, for the trading days that fall within such month as published by the Department of Agriculture;

(3) Divide by 7 and to the resulting amount add 30 percent; and

(4) Multiply the amount computed in subparagraph (3) of this paragraph by 3.5.

(c) The market administrator shall compute a price by adding together the plus amounts calculated pursuant to subparagraphs (1) and (2) of this paragraph:

(1) From the average price of butter computed pursuant to paragraph (b) (1) of this section, subtract 3 cents, add 20 percent thereof, and then multiply by 3.5; and

(2) Calculate the arithmetical average of the carlot prices per pound of roller process nonfat dry milk solids in barrels for human consumption at Chicago for the weeks ending within such month as reported by the Department of Agriculture, deduct 5.5 cents, and multiply the result by 8.2.

§ 971.51 *Class I milk prices.* The price to be paid by each handler f. o. b. his plant for that portion of skim milk and butterfat in milk received from pro-

ducers and from associations of producers which is classified as Class I milk shall be computed by the market administrator as follows:

(a) Add to the basic formula price $1.20 during each month of the year, and add or subtract a "supply-demand adjustment" computed as follows:

(1) Divide the total gross volume of Class I milk and Class II milk (less interhandler transfers and less bulk sales of Class I milk in excess of 1,000 pounds during each month by each handler to persons other than handlers outside the marketing area) in the second and third months preceding by total receipts of milk from producers for the same months, multiply the result by 100, and round to the nearest whole number. The result shall be known as the current supply-demand percentage.

(2) Compute a net deviation percentage by subtracting from the current supply-demand percentage computed pursuant to subparagraph (1) of this paragraph, the base period ratio shown below:

Month for which price is being computed	Months used to compute ratio	Base period ratio (percent)
January	October and November	86
February	November and December	87
March	December and January	87
April	January and February	84
May	February and March	79
June	March and April	74
July	April and May	66
August	May and June	63
September	June and July	65
October	July and August	70
November	August and September	76
December	September and October	82

(3) Determine the amount of the amount of the supply-demand adjustment from the following schedule:

If net deviation percentage is—	*Supply-demand adjustment is—*
+12 or over	+38
+9 or +10	+28
+6 or +7	+20
+3 or +4	+10
+1 or −1	0
−3 or −4	−10
−6 or −7	−20
−9 or −10	−28
−12 or under	−38

When the difference from the base period Class I and Class II utilization percentage does not fall within the tabulated brackets, the adjustment shall be determined by the adjacent bracket which is the same as or nearest to the bracket used in the previous month.

(b) The price per hundredweight of Class I butterfat shall be the average price of butter computed pursuant to § 971.50 (b) (1) multiplied by 130.

(c) The price per hundredweight of Class I skim milk shall be computed by (1) multiplying the price for butterfat pursuant to paragraph (b) of this section by 0.035; (2) subtracting such amount from the sum obtained in paragraph (a) of this section; (3) dividing such net amount by 0.965; and (4) rounding off to the nearest full cent.

§ 971.52 *Class II milk prices.* The price to be paid by each handler f. o. b. his plant for that portion of skim milk and butterfat in milk received from producers and associations of producers which is classified as Class II milk shall be computed by the market administrator as follows:

(a) Subtract $0.30 from the Class I price.

(b) The price for Class II butterfat shall be the average price of butter computed pursuant to § 971.50 (b) (1) multiplied by 125.

(c) The price of Class II skim milk shall be computed by (1) multiplying the price for butterfat pursuant to paragraph (b) of this section by 0.035; (2) subtracting such amount from the sum obtained in paragraph (a) of this section; (3) dividing such net amount by 0.965; and (4) rounding off to the nearest full cent.

§ 971.53 *Class III milk prices.* The prices to be paid by each handler f. o. b. his plant for that portion of skim milk and butterfat in milk received from producers and from associations of producers which is classified as Class III milk shall be computed by the market administrator as follows:

(a) Calculate the price per hundredweight of butterfat by multiplying the average price of butter computed pursuant to § 971.50 (b) (1) for the month for which prices are being computed by 120: *Provided,* That the price per hundredweight during each of the months of March through August of butterfat made into butter shall be such price per hundredweight less $5.00.

(b) The price per hundredweight of skim milk shall be computed by dividing the amount computed pursuant to § 971.50 (c) (2) for the month for which prices are being computed by 0.965: *Provided,* That for each of the months of March through August, 20 cents shall be substracted from the amount so computed.

HANDLER'S OBLIGATION AND UNIFORM PRICE

§ 971.60 *Value of milk.* The value of milk of each handler for each month shall be a sum of money computed by the market administrator by:

(a) Multiplying by the applicable class prices for skim milk and butterfat, pursuant to §§ 971.51, 971.52 and 971.53, the amounts of skim milk and butterfat in each class which were received either in milk from producers or from an association of producers during such month, and adding together such amounts;

(b) Adding an amount equal to the value of any skim milk or butterfat subtracted pursuant to § 971.44 (j) (4) at the applicable price for the class (or classes) from which such skim milk or butterfat was subtracted;

(c) Adding an amount computed by multiplying the differences between the Class III price and the price of the class of disposition by the respective quantities of any skim milk or butterfat disposed of by a handler as Class I or Class II milk which was received as milk, skim milk or cream from a handler who receives no milk from producers or an association of producers other than from his own farm production; and

(d) Adding or subtracting, as the case may be, any amount necessary to correct any errors discovered by the market administrator in the verification of reports or payments of such handler for any previous month which result in payments due the producer-settlement fund or the handler.

§ 971.61 *Notification.* On or before the 12th day after the end of each month the market administrator shall notify each handler of the value of his milk for such month as computed in accordance with § 971.60 and of the amount by which such value is greater or less than the total amount required to be paid by such handler pursuant to § 971.70.

§ 971.62 *Computation of the uniform price.* For each month the market administrator shall compute, with respect to milk received by handlers from producers and from associations of producers, a uniform price per hundredweight by:

(a) Combining into one total the values for skim milk and butterfat of all handlers, except those of handlers who failed to make payments required pursuant to § 971.74 for the preceding month;

(b) Subtracting for each of the months of April, May, June and July an amount computed by multiplying the total hundredweight of milk received from producers during such month by 20 cents in April, 40 cents in May and June, and 30 cents in July;

(c) Adding for each of the months of October, November, and December an amount computed by dividing the total amount of the obligated balance in the producer-settlement fund pursuant to § 971.73 (b) on September 30 immediately preceding by three;

(d) Adding an amount representing not less than one-half the unobligated balance in the producer-settlement fund;

(e) Subtracting, if the weighted average butterfat test of all pooled milk is greater than 3.5 percent, or adding if the weighted average butterfat test of such milk is less than 3.5 percent, an amount computed by multiplying the difference between such weighted average butterfat test and 3.5 by the butterfat differential computed pursuant to § 971.72;

(f) Dividing by the hundredweight of pooled milk; and

(g) Subtracting not less than 4 cents nor more than 5 cents.

§ 971.63 *Announcement of prices.* (a) On or before the 6th day after the end of each month the market administrator shall notify all handlers and make public announcement of the class prices for skim milk and butterfat received from producers or from associations of producers during such month.

(b) On or before the 12th day after the end of each month the market administrator shall notify all handlers and make public announcement of the uniform price computed pursuant to § 971.62 for such month, and of the butterfat differential computed pursuant to § 971.72 for such month.

§ 971.70 *Time and method of final payment.* Each handler shall pay on or before the 17th day after the end of each month to each producer for all milk re-

ceived from such producer during such month at not less than the uniform price, subject to the butterfat differential announced pursuant to § 971.63 and less the amount of the payment made pursuant to § 971.71. *Provided,* That a total amount not less than the sum of the amounts payable to individual producers from which a cooperative association has received written authorization to collect payment shall be paid to such association on or before the 16th day after the end of such month.

§ 971.71 *Partial payments.* On or before the 27th day of each month each handler shall make payment to each producer, except as set forth in paragraph (b) of this section, for all milk received from such producer during the first 15 days of such month. Prices at which such payment shall be made shall be computed quarterly to be applicable to payments to be made in January through March, April through June, July through September, and October through December on the basis of the uniform price for the month immediately preceding the beginning of the quarter as follows:

If the uniform price for the preceding month is—	*Partial payment per hundredweight shall be—*
Under $1.00	$0.00
$1.00–$1.99	.50
$2.00–$2.99	1.00
$3.00–$3.99	2.00
$4.00–$4.99	3.00
$5.00–$5.99	4.00
$6.00–$6.99	5.00
7.00 or over	6.00

Provided, That a total amount not less than the sum of the amounts payable to individual producers from which a cooperative association has received written authorization to collect payment shall be paid to such association on or before the 26th day of such month.

§ 971.72 *Butterfat differential.* For each month the market administrator shall compute to the nearest one-tenth cent a butterfat differential by multiplying the average price of butter as computed pursuant to § 971.50 (b) (1) by 0.12.

§ 971.73 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" which shall function as follows:

(a) All payments made by handlers pursuant to § 971.74 shall be deposited in this fund, and all payments made to handlers pursuant to § 971.75 shall be made out of this fund: *Provided,* That the market administrator shall offset any such payment due any handler against payments due from such handler;

(b) All amounts subtracted pursuant to § 971.62 (b) shall be deposited in this fund and shall remain therein as an obligated balance until it is withdrawn for the purpose of effectuating § 971.62 (c) and

(c) The difference between the amount added pursuant to § 971.62 (d) and the total amounts resulting from the subtraction pursuant to § 971.62 (g) shall be deposited in, or withdrawn from, this fund, as the case may be to effectuate § 971.62 (d) and (g)

§ 971.74 *Payments to the producer-settlement fund.* On or before the 14th day after the end of each month, each handler shall pay to the market administrator the amount by which the total value of his milk for such month is greater than the sum required to be paid by such handler pursuant to § 971.70.

§ 971.75 *Payments out of the producer-settlement fund.* On or before the 16th day after the end of each month the market administrator shall pay to each handler the amount by which the sum required to be paid producers by such handler pursuant to § 971.70 is greater than the total value of the milk of such handler for such month: *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. No handler who, on the 16th day after the end of any month, has not received full payment for such month from the market administrator pursuant to this section shall be deemed to be in violation of § 971.70 if he reduces his payments per hundredweight thereunder by not more than the amount of the reduction in payment from the market administrator.

§ 971.76 *Adjustment of errors.* Whenever verification by the market administrator of the payment by a handler to a producer or to an association of producers, pursuant to §§ 971.70 or 971.71, discloses payment of less than is required, the handler shall make up such payment not later than the time for making payment pursuant to §§ 971.70 or 971.71 next following such disclosure.

§ 971.77 *Expense of administration.* As his pro rata share of the expense incurred pursuant to § 971.22 (c) each handler shall pay to the market administrator, on or before the 14th day after the end of each month, 2 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe, with respect to receipts during such month of:

(a) Milk from producers (including such handler's own production) and

(b) Other source milk classified as Class I milk and Class II milk.

§ 971.78 *Marketing services*—(a) *Deductions.* Except as set forth in paragraph (b) of this section, each handler shall deduct an amount not exceeding 6 cents per hundredweight, or such lesser amount as the Secretary from time to time may prescribe, from the payments made pursuant to § 971.70, with respect to all milk received by such handler during each month from producers (not including such handler's own production) and from associations of producers, and shall pay such deductions to the market administrator on or before the 14th day after the end of such month. Such moneys shall be used by the market administrator to verify weights, samples, and tests of such milk received by handlers and to provide such producers and associations of producers with market information, such services to be performed in whole or in part by the market administrator or by an agent engaged by him and responsible to him.

(b) *By cooperative associations.* In the case of producers for whom a cooperative association is actually performing as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may have been authorized by such producers and, on or before the 16th day after the end of the month, pay over such deductions to the cooperative association rendering such services.

§ 971.90 *Application of provisions.* Sections 971.50 through 971.94 shall not apply to a handler who receives at his plant only milk of his own farm production or from other handlers.

§ 971.91 *Effective time.* The provisions of this subpart, or any amendment to this subpart, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated, pursuant to § 971.92.

§ 971.92 *Suspension or termination.* The Secretary may suspend or terminate this subpart or any provision of this subpart, whenever he finds that this subpart or any provisions of this subpart, obstructs, or does not tend to effectuate, the declared policy of the act. This subpart shall terminate, in any event, whenever the provisions of the act authorizing it cease to be in effect.

§ 971.93 *Continuing power and duty of the market administrator* (a) If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations arising under this subpart, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(b) The market administrator, or such other person as the Secretary may designate, shall (1) continue in such capacity until discharged by the Secretary, (2) from time to time account for all receipts and disbursements, and, when so directed by the Secretary, deliver all funds or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary may direct, and (3) if so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant hereto.

§ 971.94 *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions of this subpart, the market administrator, or such person as the Secretary may designate shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this subpart, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 971.95 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this subpart.

§ 971.96 *Separability of provisions.* If any provision of this subpart, or the application thereof to any person or circumstances, is held invalid, the remainder of the subpart, and the application of such provision to other persons or circumstances, shall not be affected thereby.

§ 971.97 *Termination of obligations.* The provisions of this section shall apply to any obligation under this subpart for the payment of money irrespective of when such obligation arose, except an obligation involved in an action instituted before August 1, 1949, under section 8c (15) (A) of the act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this subpart shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s), or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this subpart, to make available to the market administrator or his representatives all books and records required by this subpart to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such books and records pertaining to such obligations are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this subpart to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this subpart shall terminate two years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

Dated: March 18, 1953.

ROY W. LENNARTSON,
Assistant Administrator.

[F. R. Doc. 53-2495; Filed, Mar. 19, 1953; 8:53 a. m.]

[P & S Docket No. 383]

MARKET AGENCIES AT ST. LOUIS NATIONAL STOCK YARDS

NOTICE OF PETITION FOR MODIFICATION OF RATE ORDER

Correction

In Federal Register Document 53-2156, appearing at page 1361 of the issue for Tuesday, March 10, 1953, the principal headnote should read as set forth above.

DEPARTMENT OF LABOR

Division of Public Contracts

[41 CFR Part 202]

MINIMUM WAGE DETERMINATIONS

NOTICE OF EXTENSION OF TIME FOR FILING EXCEPTIONS TO PROPOSED PREVAILING MINIMUM WAGE DETERMINATION FOR PAPER AND PULP INDUSTRY

Notice was published in the FEDERAL REGISTER on January 27, 1953 (18 F. R. 572) of a proposed amendment to the determination of the prevailing minimum wage for the Paper and Pulp Industry. The notice provided a period of 30 days for filing of exceptions or objections to the proposed decision. This period expired on February 26, 1953.

A request has been made by a member of the industry on behalf of itself and others similarly situated for an extension of time for the filing of exceptions to the proposed determination. Upon consideration of this request I have decided to allow an additional period of 10 days from date of publication of this notice in the FEDERAL REGISTER, within which exceptions and objections to the proposed determination for the Paper and Pulp Industry will be received from any and all parties interested in the proceedings.

Signed at Washington, D. C., this 17th day of March 1953.

MARTIN P. DURKIN,
Secretary of Labor.

[F. R. Doc. 53-2455; Filed, Mar. 19, 1953; 8:49 a. m.]

[41 CFR Part 202]

MINIMUM WAGE DETERMINATIONS

PREVAILING MINIMUM WAGES IN WOOLEN AND WORSTED INDUSTRY; NOTICE OF SUPPLEMENTAL HEARING

On January 27, 1953, notice was published in the FEDERAL REGISTER (18 F. R. 575) that the Secretary of Labor proposed to issue an amended prevailing wage determination for the Woolen and Worsted Industry as set forth in such notice, and that a period of 30 days was allowed for submission of exceptions to such proposed determination.

Upon consideration of petitions filed subsequent to the publication of said notice and for good cause shown, I have decided to hold a supplemental hearing.

Accordingly, notice is hereby given that a supplemental hearing on this matter will be held on April 22, 1953, beginning at 10 a. m. in Room 2203, Department of Labor Building, Fourteenth Street and Constitution Avenue NW., Washington, D. C., at which all interested parties may appear in opposition to or in support of the proposed amendment, and offer supplemental evidence and otherwise participate in accordance with the terms of the original notice of hearing published in the FEDERAL REGISTER on March 25, 1952.

Signed at Washington, D. C., this 16th day of March 1953.

MARTIN P. DURKIN,
Secretary of Labor

[F. R. Doc. 53-2454; Filed, Mar. 19, 1953; 8:49 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Docket DA-389, Region I]

OREGON

RESTORATION ORDER UNDER FEDERAL POWER ACT

MARCH 13, 1953.

Pursuant to determination DA-389, Oregon, of the Federal Power Commission and in accordance with Order No. 427, section 2.22 (a) (4) the Director, Bureau of Land Management, approved August 16, 1950, 15 F R. 5641, it is ordered as follows:

Subject to valid existing rights and the provisions of existing withdrawals the lands hereinafter described so far as they are withdrawn and reserved for power purposes are hereby restored to disposition under the public land laws as provided by law, subject to the provisions of section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075; 16 U. S. C. sec. 818) as amended.

OREGON

T. 31 S., R. 42 E., W. M.
Sec. 31, W½.

The areas described aggregate 320 acres.

The lands have an elevation of 3,400 feet and are level to slightly rolling with the exception of the NE¼NW¼ which is rough and mountainous. The soil on most of the lands is a medium light sandy clay loam with some pea gravel in places and very rocky on the extreme northeastern portion. The highest use of the lands at the present time is for the grazing of livestock, and from standpoint of soil and topography, the lands have a potential value for cultivation under the desert land laws if and when water is made available. No known source of irrigation water is available.

The lands shall be subject to application by the State of Oregon for a period of 90 days from the date of publication of this order in the FEDERAL REGISTER for rights-of-way for public highways or as a source of materials for the construction and maintenance of such highways, subject to section 24 of the Federal Power Act, as amended.

This order shall not otherwise affect the status of the lands until 10:00 a. m. on the 91st day after the date of publication of this order in the FEDERAL REGISTER. At that time the lands shall become subject to application, petition, location and selection, subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable laws, and the 90-day preference right filing period for veterans and others entitled to preference under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279–284) as amended.

Information showing the periods during which and the conditions under which veterans and others may file applications for these lands may be obtained on request from the Manager, Land Office, Portland 18, Oregon.

JAMES F DOYLE,
Assistant Regional Administrator

[F. R. Doc. 53-2457; Filed, Mar. 19, 1953; 8:49 a. m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[481.21]

SPRUCE LUMBER OBTAINED FROM TREES GROWN IN CANADIAN PROVINCE OF ONTARIO

NOTICE OF PROSPECTIVE CLASSIFICATION

MARCH 17, 1953.

It appears probable that white spruce lumber obtained from trees grown in the Canadian Province of Ontario is not entitled to the exemption from the import tax provided for in section 3424 (a) Internal Revenue Code as heretofore has been the case under an established and uniform practice.

Pursuant to § 16.10a (d) Customs Regulations of 1943 (19 CFR 16.10a (d)) notice is hereby given that the existing uniform practice of classifying such merchandise free of the import tax is under review in the Bureau of Customs.

Consideration will be given to any relevant data, views, or arguments pertaining to the correct tariff classification of this merchandise which are submitted in writing to the Bureau of Customs, Washington 25, D. C. To assure consideration, such communications must be received in the Bureau not later than 30 days from the date of publication of this notice. No hearings will be held.

[SEAL] FRANK DOW,
Commissioner of Customs.

[F. R. Doc. 53-2463; Filed, Mar. 19, 1953; 8:50 a. m.]

[T. D. 53218]

COAL, COKE AND BRIQUETS IMPORTED FROM CERTAIN COUNTRIES

TAXABLE STATUS

MARCH 17, 1953.

Coal, coke made from coal, and coal or coke briquets imported from the following countries and entered for consumption or withdrawn from warehouse for consumption during the period from January 1 to December 31, 1953, inclusive, will not be subject to the tax of 10 cents per 100 pounds prescribed in the Internal Revenue Code, section 3423:

Brazil.	Jamaica.
Canada.	Mexico.
France.	Netherlands.
French Morocco.	Netherlands Antilles.
Germany.	Peru.
Italy.	United Kingdom.

Certain countries from which there have been no importations of coal or allied fuels since January 1, 1951, are not included in the above list. Further information concerning the taxable status of coal or allied fuels imported during the calendar year 1953 from countries not listed above will be furnished upon application therefor to the Bureau.

[SEAL] FRANK DOW,
Commissioner of Customs.

[F. R. Doc. 53-2464; Filed, Mar. 19, 1953; 8:50 a. m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

DESIGNATION OF DISASTER AREAS HAVING NEED FOR AGRICULTURAL CREDIT

Pursuant to the authority contained in section 2, of the act of April 16, 1949 (63 Stat. 44; 12 U. S. C. 1148a-2), designations of counties having a need for agricultural credit were made as follows:

COLORADO

The following counties were designated, on February 13, 1953, as disaster areas due to severe drought conditions. After December 31, 1953, disaster loans will not be made except to borrowers who previously received such assistance.

Baca.	Kiowa.
Bent.	Kit Carson.
Cheyenne.	Las Animas.
Crowley.	Lincoln.
Elbert.	Otero.
El Paso.	Prowers.
Huerfano.	Pueblo.

Done at Washington, D. C., this 17th day of March 1953.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 53-2452; Filed, Mar. 19, 1953; 8:48 a. m.]

DEPARTMENT OF COMMERCE

National Production Authority

[Suspension Order 37; Docket No. 44—Modification 2]

DELMAN CORP. AND LEONARD C. NEUFELD

ORDER OF MODIFICATION

This proceeding has to do with the matter of the National Production Authority vs. The Delman Corporation and Leonard C. Neufeld, 506 Third Street, Des Moines, Iowa, in connection with which NPA Hearing Commissioner Frederick J. Moreau, at Lawrence, Kansas, entered Suspension Order 37 on October 3, 1952, and the Deputy Chief Hearing Commissioner, at Washington, D. C., entered order of modification on November 25, 1952.

In conformity with the policy established by Direction 20 to CMP Regulation No. 1, dated February 16, 1953, and Direction 10 to Revised CMP Regulation No. 6, dated February 16, 1953 (see also Designation of Scarce Materials 1, as amended February 18, 1953), and

On motion of Robert H. Winn, Esquire, Assistant General Counsel of the National Production Authority.

It is hereby ordered, Pursuant to the provisions of paragraph (c) of section 5 of NPA Rules of Practice (17 F. R. 8156) that the above-identified suspension orders be modified so that the respondents herein, any provision in the suspension orders notwithstanding, may acquire any controlled material which is acquired pursuant to the provisions of section 6 of Direction 20 to CMP Regulation No. 1 or section 2 (a) of Direction 10 to Revised CMP Regulation No. 6; and

It is further ordered, That the said suspension orders be further modified so that the respondents herein may use or dispose of any controlled materials so acquired, and the suspension order herein shall not be treated as effecting a prohibition by a regulation or order of NPA as referred to in section 7 of Direction 20 to CMP Regulation No. 1 as to any controlled material acquired pursuant to the provisions of said Direction 20 or of Direction 10 to Revised CMP Regulation No. 6.

In all other respects the aforesaid Suspension Order 37 remains unmodified.

Issued this 10th day of March 1953 at Washington, D. C.

NATIONAL PRODUCTION AUTHORITY,
By MORRIS R. BEVINGTON,
Deputy Chief Hearing Commissioner

[F. R. Doc. 53-2528; Filed, Mar. 19, 1953; 11:31 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 5233 et al.]

TRANS-TEXAS RENEWAL CASE, SEGMENTS 2 AND 6

NOTICE OF POSTPONEMENT OF ORAL ARGUMENT

In the matter of the renewal of the temporary certificate of public convenience and necessity for segments 2 and 6 of route No. 82 held by Trans-Texas Airways, Inc.

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that oral argument in the above-entitled proceeding, assigned to be heard on April 9, is postponed to April 21, 1953, at 10:00 a. m., e. s. t., in Room 5042, Commerce Building, Constitution Avenue, between Fourteenth and Fifteenth Streets NW., Washington, D. C., before the Board.

Dated at Washington, D. C., March 18, 1953.

[SEAL] FRANCIS W BROWN,
Chief Examiner

[F. R. Doc. 53-2474; Filed, Mar. 19, 1953; 8:53 a. m.]

[Docket No. 3094 et al.]

CONTINENTAL AIR LINES, INC., WICHITA FALLS-DALLAS SERVICE CASE

NOTICE OF ORAL ARGUMENT

In the matter of the applications of Continental Air Lines, Inc., for amendment of its certificate of public convenience and necessity for route No. 29 to extend its service from Wichita Falls, Texas, to Dallas, Texas, via Fort Worth, Texas.

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that oral argument in the above-entitled proceeding is assigned to be held on April 30, 1953, at 10:00 a. m., e. s. t., in Room 5042, Commerce Building, Constitution Avenue, between Fourteenth and Fifteenth Streets NW., Washington, D. C., before the Board.

Dated at Washington, D. C., March 19, 1953.

[SEAL] FRANCIS W BROWN,
Chief Examiner

[F. R. Doc. 53-2475; Filed, Mar. 19, 1953; 8:53 a. m.]

ECONOMIC STABILIZATION AGENCY

Office of Price Stabilization

REGIONS VIII, X

LIST OF COMMUNITY CEILING PRICE ORDERS

The following orders under General Overriding Regulation were filed with the Division of the Federal Register on March 12, 1953.

REGION VIII

Sioux Falls Order III-G1-3, filed 11:11 a. m., III-G2-3, filed 11:12 a. m., III-G3-3, filed 11:13 a. m., III-G4-3, filed 11:14 a. m., II-G4-4, amendment 1, filed 11:10 a. m., II-G4-4, amendment 2, filed 11:10 a. m., II-G4-4, amendment 3, filed 11:10 a. m., III-G1-2, amendment 3, filed 11:10 a. m., III-G1-2, amendment 4, filed 11:10 a. m., III-G1-3, amendment 1, filed 11:11 a. m., III-G1-3, amendment 2, filed 11:12 a. m., III-G2-2, amendment 3, filed 11:12 a. m., III-G2-2, amendment 4, filed 11:12 a. m., III-G2-3, amendment 1, filed 11:13 a. m., III-G2-3, amendment 2, filed 11:13 a. m., III-G3-2, amendment 3, filed 11:13 a. m., III-G3-2, amendment 4, filed 11:13 a. m., III-G3-3, amendment 1, filed 11:13 a. m., III-G3-3, amendment 2, filed 11:13 a. m., III-G4-2, amendment 3, filed 11:14 a. m., III-G4-2, amendment 4, filed 11:14 a. m., III-G4-3, amendment 1, filed 11:14 a. m., III-G4-3, amendment 2, filed 11:14 a. m., IV-G1-2, amendment 2, filed 11:14 a. m., IV-G1-2, amendment 3, filed 11:14 a. m., IV-G1-2, amendment 4, filed 11:14 a. m., IV-G1-2, amendment 5, filed 11:15 a. m., IV-G1-2, amendment 6, filed 11:15 a. m., IV-G2-2, amendment 2, filed 11:15 a. m., IV-G2-2, amendment 3, filed 11:15 a. m., IV-G2-2, amendment 4, filed 11:15 a. m., IV-G2-2, amendment 5, filed 11:15 a. m., IV-G2-2, amendment 6, filed 11:15 a. m., IV-G4-2, amendment 2, filed 11:15 a. m., IV-G4-2, amendment 3, filed 11:16 a. m., IV-G4-2, amendment 4, filed 11:16 a. m., IV-G4-2, amendment 5, filed 11:16 a. m., IV-G4-2, amendment 6, filed 11:17 a. m.

Fargo Order I-G1-5, filed 11:17 a. m., I-G2-5, filed 11:17 a. m., I-G3-5, filed 11:18 a. m., I-G4-5, filed 11:18 a. m., II-G1-5, filed 11:18 a. m., II-G2-5, filed 11:19 a. m., II-G3-5, filed 11:19 a. m., II-G4-5, filed 11:20 a. m., III-G1-4, filed 11:20 a. m., III-G2-4, filed 11:20 a. m., IV-G1-4, filed 11:21 a. m., IV-G2-4, filed 11:21 a. m., I-G1-5, amendment 1, filed 11:17 a. m., I-G1-5, amendment 2, filed 11:17 a. m., I-G2-5, amendment 1, filed 11:18 a. m., I-G2-5, amendment 2, filed 11:18 a. m., I-G3-5, amendment 1, filed 11:18 a. m., I-G3-5, amendment 2, filed 11:18 a. m., I-G4-5, amendment 1, filed 11:18 a. m., I-G4-5, amendment 2, filed 11:18 a. m., II-G1-5, amendment 1, filed 11:19 a. m., II-G1-5, amendment 2, filed 11:19 a. m., II-G2-5, amendment 1, filed 11:19 a. m., II-G2-5, amendment 2, filed 11:19 a. m., II-G3-5, amendment 1, filed 11:19 a. m., II-G3-5, amendment 2, filed 11:20 a. m., II-G4-5, amendment 1, filed 11:20 a. m., II-G4-5, amendment 2, filed 11:20 a. m., III-G1-4, amendment 1, filed 11:20 a. m., III-G1-4, amendment 2, filed 11:20 a. m., III-G2-4, amendment 1, filed 11:21 a. m., III-G2-4, amendment 2, filed 11:21 a. m., IV-G1-4, amendment 1, filed 11:21 a. m., IV-G1-4, amendment 2, filed 11:21 a. m., IV-G2-4, amendment 1, filed 11:21 a. m., IV-G2-4, amendment 2, filed 11:21 a. m.

Helena Order I-G1-3, amendment 1, filed 11:22 a. m., I-G1-3, amendment 2, filed 11:22 a. m., I-G2-3, amendment 1, filed 11:22 a. m., I-G2-3, amendment 2, filed 11:22 a. m., I-G3-3, amendment 1, filed 11.22 a. m., I-G3-3, amendment 2, filed 11.22 a. m., I-G4-3, amendment 1, filed 11:22 a. m., I-G4-3, amendment 2, filed 11:22 a. m., II-G1-2, amendment 1, filed 11:22 a. m., II-G1-2, amendment 2, filed 11:22 a. m., II-G2-2, amendment 1, filed 11:22 a. m., II-G2-2, amendment 2, filed 11:23 a. m., III-G1-1, amendment 1, filed 11:23 a. m., III-G1-1, amendment 2, filed 11:23 a. m., III-G2-1, amendment 1, filed 11:23 a. m., III-G2-1, amendment 2, filed 11:23 a. m., IV-G1-1, amendment 1, filed 11:23 a. m., IV-G1-1, amendment 2, filed 11:23 a. m., IV-G2-1, amendment 1, filed 11:24 a. m., IV-G2-1, amendment 2, filed 11:24 a. m.

Minneapolis Order I-G1-2, amendment 8, filed 11:24 a. m., I-G1-2, amendment 9, filed 11:24 a. m., I-G2-2, amendment 8, filed 11:24 a. m., I-G2-2, amendment 9, filed 11:24 a. m., I-G3-2, amendment 8, filed 11:24 a. m., I-G3-2, amendment 9, filed 11:25 a. m., I-G4-2, amendment 8, filed 11:26 a. m., I-G4-2, amendment 9, filed 11:26 a. m., I-G4A-1, amendment 8, filed 11:26 a. m., I-G4A-1, amendment 9, filed 11:27 a. m., II-G1-1, amendment 5, filed 11:27 a. m., II-G1-1, amendment 6, filed 11:27 a. m., II-G2-1, amendment 5, filed 11:27 a. m., II-G2-1, amendment 6, filed 11:27 a. m., II-G3-1, amendment 7, filed 11:27 a. m., II-G3-1, amendment 8, filed 11:27 a. m., II-G4-1, amendment 7, filed 11:27 a. m., II-G4-1, amendment 8, filed 11:28 a. m., II-G4A-1, amendment 2, filed 11:28 a. m., II-G4A-1, amendment 3, filed 11:28 a. m., III-G1-1, amendment 5, filed 11:23 a. m., III-G1-1, amendment 6, filed 11:23 a. m., III-G2-1, amendment 5, filed 11:23 a. m., III-G2-1, amendment 6, filed 11:23 a. m., III-G3-1, amendment 5, filed 11:29 a. m., III-G3-1, amendment 6, filed 11:29 a. m., III-G4-1, amendment 5, filed 11:30 a. m., III-G4-1, amendment 6, filed 11:30 a. m.

REGION X

Dallas Order I-G1-2, amendment 1, filed 2:01 p. m., I-G1-2, amendment 2, filed 2:01 p. m., I-G1-2, amendment 3, filed 2:01 p. m., I-G1-2, amendment 4, filed 2:02 p. m., I-G2-2, amendment 1, filed 2:02 p. m., I-G2-2, amendment 2, filed 2:02 p. m., I-G2-2, amendment 3, filed 2:02 p. m., I-G2-2, amendment 4, filed 2:03 p. m., I-G3-2, amendment 1, filed 2:03 p. m., I-G3-2, amendment 2, filed 2:03 p. m., I-G3-2, amendment 3, filed 2:03 p. m., I-G3-2, amendment 4, filed 2:03 p. m., I-G3A-1, amendment 3, filed 2:04 p. m., I-G3A-1, amendment 4, filed 2:04 p. m., I-G3A-1, amendment 5, filed 2:04 p. m., I-G3A-1, amendment 6, filed 2:04 p. m., I-G4-2, amendment 1, filed 2:04 p. m., I-G4-2, amendment 2, filed 2:05 p. m., I-G4-2, amendment 3, filed 2:05 p. m., I-G4-2, amendment 4, filed 2:05 p. m., I-G4A-1,

amendment 3, filed 2:05 p. m., I-G4A-1, amendment 4, filed 2:05 p. m., I-G4A-1, amendment 5, filed 2:06 p. m., I-G4A-1, amendment 6, filed 2:06 p. m.

Little Rock Order I-G1-4, amendment 2, filed 2:06 p. m., I-G2-4, amendment 2, filed 2:06 p. m., I-G3-4, amendment 2, filed 2:06 p. m., I-G3-4, amendment 3, filed 2:07 p. m., I-G3-4, amendment 4, filed 2:07 p. m., I-G3-4, amendment 5, filed 2:07 p. m., I-G3-4, amendment 6, filed 2:07 p. m., I-G3A-3, amendment 5, filed 2:08 p. m., I-G4-4, amendment 2, filed 2:08 p. m., I-G4-4, amendment 3, filed 2:09 p. m., I-G4-4, amendment 4, filed 2:09 p. m., I-G4-4, amendment 5, filed 2:09 p. m., I-G4-4, amendment 6, filed 2:09 p. m., I-G4A-3, amendment 5, filed 2:10 p. m.

New Orleans Order I-G1-4, amendment 1, filed 2:10 p. m., I-G1-4, amendment 2, filed 2:10 p. m., I-G1-4, amendment 3, filed 2:11 p. m., I-G1-4, amendment 4, filed 2:11 p. m., I-G2-4, amendment 1, filed 2:11 p. m., I-G2-4, amendment 2, filed 2:12 p. m., I-G2-4, amendment 3, filed 2:12 p. m., I-G2-4, amendment 4, filed 2:12 p. m., I-G3-4, amendment 1, filed 2:12 p. m., I-G3-4, amendment 2, filed 2:12 p. m., I-G3-4, amendment 3, filed 2:13 p. m., I-G3-4, amendment 4, filed 2:13 p. m., I-G3A-1, amendment 1, filed 2:13 p. m., I-G3A-1, amendment 2, filed 2:14 p. m., I-G3A-1, amendment 3, filed 2:14 p. m., I-G3A-1, amendment 4, filed 2:14 p .m., I-G4-4, amendment 1, filed 2:15 p. m., I-G4-4, amendment 2, filed 2:15 p. m., I-G4-4, amendment 3, filed 2:15 p. m., I-C4-4, amendment 4, filed 2:16 p. m., I-G4A-2, amendment 6, filed 2:16 p. m., I-G4A-2, amendment 7, filed 2:16 p. m., I-G4A-2, amendment 8, filed 2:16 p. m., I-G4A-2, amendment 9, filed 2:17 p. m.

Oklahoma City Order I-G1-4, amendment S1, filed 2:17 p. m., I-G1-4, amendment 2, filed 2:17 p. m., I-G1-4, amendment 3, filed 2:17 p. m., I-G1-4, amendment 4, filed 2:18 p. m., I-G2-4, amendment S1, filed 2:18 p. m., I-G2-4, amendment 2, filed 2:18 p. m., I-G2-4, amendment 3, filed 2:18 p. m., I-G2-4, amendment 4, filed 2:18 p. m., I-G4-4, amendment S1, filed 2:19 p. m., I-G4-4, amendment 2, filed 2:19 p. m., I-G4-4, amendment 3, filed 2:19 p. m., I-G4-4, amendment 4, filed 2:19 p. m.

San Antonio Order I-G1-4, amendment 1, filed 2:20 p. m., I-G1-4, amendment, 2, filed 2:20 p. m., I-G1-4, amendment 3, filed 2:20 p. m., I-G2-4, amendment 1, filed 2:20 p. m., I-G2-4, amendment 2, filed 2:20 p. m., I-G2-4, amendment 3, filed 2:21 p. m., I-G3-4, amendment 1, filed 2:21 p. m., I-G3-4, amendment 2, filed 2:21 p. m., I-G3-4, amendment 3, filed 2:21 p. m., I-G3A-3, amendment 4, filed 2:22 p. m., I-G3A-3, amendment 5, filed 2:22 p. m., I-G3A-3, amendment 6, filed 2:22 p. m., I-G4-4, amendment 1, filed 2:22 p. m., I-G4-4, amendment 2, filed 2:22 p. m., I-G4-4, amendment 3, filed 2:23 p. m., I-G4A-2, amendment 4, filed 2:23 p. m., I-G4A-2, amendment 5, filed 2:24 p. m., I-G4A-2, amendment 6, filed 2:24 p. m.

Houston Order I-G1-1, amendment 1, filed 2:24 p. m., I-G1-1, amendment 2, filed 2:25 p. m., I-G1-1, amendment 3, filed 2:25 p. m., I-G2-1, amendment 1, filed 2:25 p. m., I-G2-1, amendment 2, filed 2:25 p. m., I-G2-1, amendment 3, filed 2:26 p. m., I-G3-1, amendment 1, filed 2:26 p. m., I-G3-1, amendment 2, filed 2:26 p. m., I-G3-1, amendment 3, filed 2:27 p. m., I-G4-1, amendment 1, filed 2:27 p. m., I-G4-1, amendment 2, filed 2:27 p. m., I-G4-1, amendment 3, filed 2:27 p. m., II-G3A-2, amendment 2, filed 2:27 p. m., II-G4A-2, amendment 2, filed 2:28 p. m.

Copies of any of these orders may be obtained in any OPS office in the designated city.

JOSEPH L. DWYER,
Recording Secretary.

[F. R. Doc. 53-2467; Filed, Mar. 17, 1953; 4:09 p. m.]

REGION XI

LIST OF COMMUNITY CEILING PRICE ORDERS

The following orders under General Overriding Regulation were filed with the Division of the Federal Register on March 13, 1953:

REGION XI

Denver Order I-G1-4, filed 3:13 p. m., I-G2-4, filed 3:13 p. m., I-G4-4, filed 3:14 p. m., II-G1-2, filed 3:14 p. m., II-G2-2, filed 3:14 p. m., II-G4-2, filed 3:15 p. m., III-G1-2, filed 3:15 p. m., III-G2-2, filed 3:16 p. m., IV-G1-2, filed 3:16 p. m., IV-G2-2, filed 3:16 p. m., V-G1-2, filed 3:17 p. m., V-G2-2, filed 3:17 p. m., I-G1-4, amendment 1, filed 3:13 p. m., I-G2-4, amendment 1, filed 3:13 p. m., I-G4-4, amendment 1, filed 3:14 p. m., II-G1-2, amendment 1, filed 3:14 p. m., II-G2-2, amendment 1, filed 3:15 p. m., II-G4-2, amendment 1, filed 3:15 p. m., III-G1-2, amendment 1, filed 3:15 p. m., III-G2-2, amendment 1, filed 3:16 p. m., IV-G1-2, amendment 1, filed 3:16 p. m., IV-G2-2, amendment 1, filed 3:17 p. m., V-G1-2, amendment 1, filed 3:17 p. m., V-G2-2, amendment 1, filed 3:17 p. m.

Salt Lake City Order I-G1-3, amendment 5, filed 3:18 p. m., I-G1-3, amendment 6, filed 3:18 p. m., I-G1-3, amendment 7, filed 3:18 p. m., I-G2-3, amendment 5, filed 3:18 p. m., I-G2-3, amendment 6, filed 3:18 p.m., I-G2-3, amendment 7, filed 3:19 p. m., I-G4-3, amendment 5, filed 3:19 p. m., I-G4-3, amendment 6, filed 3:19 p. m., I-G4-3, amendment 7, filed 3:19 p. m., I-G4-3, amendment 8, filed 3:20 p. m., I-G4A-3, amendment 5, filed 3:20 p. m., I-G4A-3, amendment 6, filed 3:20 p. m., I-G4A-3, amendment 7, filed 3:20 p. m., II-G1-1, amendment 8, filed 3:20 p. m., II-G1-1, amendment 9, filed 3:21 p. m., II-G1-1, amendment 10, filed 3:21 p. m., II-G2-1, amendment 8, filed 3:21 p. m., II-G2-1, amendment 9, filed 3:21 p. m., II-G2-1, amendment 10, filed 3:21 p. m., II-G4-1, amendment 8, filed 3:21 p. m., II-G4-1, amendment 9, filed 3:22 p. m., II-G4-1, amendment 10, filed 3:22 p. m., II-G4-1, amendment 11, filed 3:22 p. m., III-G1-1, amendment 6, filed 3:22 p. m., III-G1-1, amendment 7, filed 3:23 p. m., III-G1-1, amendment 8, filed 3:23 p. m., III-G2-1, amendment 6, filed 3:23 p. m., III-G2-1, amendment 7, filed 3:23 p. m., III-G2-1, amendment 8, filed 3:23 p. m.

Albuquerque Order I-G1-4, filed 3:24 p. m., I-G2-4, filed 3:25 p. m.; I-G4-4, filed 3:25 p. m., I-G4A-4, filed 3:25 p. m., II-G1-1, amendment 2, filed 3:24 p. m., II-G2-1, amendment 2, filed 3:24 p. m., II-G4A-1, amendment 2, filed 3:24 p. m.

Cheyenne Order I-G1-4, filed 3:26 p. m., I-G2-4, filed 3:27 p. m., I-G4-4, filed 3:27 p. m., I-G4A-4, filed 3:28 p. m., IV-G1-2, filed 3:30 p. m.; IV-G2-2, filed 3:31 p. m., IV-G4-2, filed 3:32 p. m., I-G1-3, amendment 3, filed 3:25 p. m., I-G1-3, amendment 4, filed 3:26 p. m., I-G1-4, amendment 1, filed 3:26 p. m., I-G2-3, amendment 3, filed 3:26 p. m., I-G2-3, amendment 4, filed 3:26 p. m.; I-G2-4, amendment 1, filed 3:27 p. m., I-G4-3, amendment 4, filed 3:27 p. m., I-G4-4, amendment 1, filed 3:28 p. m., I-G4A-3, amendment 3, filed 3:28 p. m., I-G4A-3, amendment 4, filed 3:28 p. m., I-G4A-4, amendment 1, filed 3:29 p. m., II-G1-1, amendment 4, filed 3:29 p. m., II-G2-1, amendment 4, filed 3:29 p. m., II-G4-2, amendment 3, filed 3:29 p. m., III-G1-1, amendment 3, filed 3:29 p. m., III-G2-1, amendment 3, filed 3:30 p. m., III-G4-1, amendment 6, filed 3:30 p. m., III-G4-1, amendment 7, filed 3:30 p. m., IV-G1-1, amendment 3, filed 3:30 p. m., IV-G1-2, amendment 1, filed 3:31 p. m., IV-G1-2, amendment 2, filed 3:31 p. m., IV-G2-1, amendment 3, filed 3:31 p. m., IV-G2-2, amendment 1, filed 3:31 p. m., IV-G2-2, amendment 2, filed 3:32 p. m., IV-G4-1, amendment 5, filed 3:32 p. m., IV-G4-1, amendment 6, filed 3:32 p. m., IV-G4-2, amendment 1, filed 3:32 p. m., IV-G4-2, amendment 2, filed 3:33 p. m.

Copies of any of these orders may be obtained in any OPS office in the designated city.

JOSEPH L. DWYER,
Recording Secretary.

[F. R. Doc. 53-2468; Filed, Mar. 17, 1953; 4:09 p. m.]

FEDERAL POWER COMMISSION

[Docket No. E-6473]

KANSAS CITY POWER & LIGHT CO. AND IOWA PUBLIC SERVICE CO.

NOTICE OF ORDER AUTHORIZING AND APPROVING DISPOSITION AND ACQUISITION OF FACILITIES AND MERGER OR CONSOLIDATION

MARCH 16, 1953.

Notice is hereby given that on March 11, 1953, the Federal Power Commission issued its order entered March 10, 1953, authorizing and approving disposition and acquisition of facilities and merger or consolidation thereof in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 53-2437; Filed, Mar. 19, 1953; 8:45 a. m.]

[Docket No. G-1319]

ALGONQUIN GAS TRANSMISSION CO.

NOTICE OF MOTION TO AMEND PLEADINGS TO CONFORM TO EVIDENCE

MARCH 16, 1953.

Take notice that Algonquin Gas Transmission Company (Movent), a Delaware Corporation having its principal place of business at Boston, Massachusett, filed on February 24, 1953, a motion to amend pleadings to conform to the evidence presented in proceedings now in hearing before the Commission.

Movent seeks to amend its application filed pursuant to the provisions of section 7 of the Natural Gas Act for a certificate of convenience and necessity authorizing the construction and operation of 159 miles of 26-inch main line and 90 miles of 24-inch main line and approximately 272.4 miles of lateral lines. Movent proposes to serve 217,800 Mcf per day on a maximum day in its fifth year of operation. Movent proposes to establish an interconnection with the 8-inch line of Consolidated Edison Company in the vicinity of Peekskill, New York, and to make application for emer-

gency sale of natural gas to that company, subject to Commission approval in a separate and subsequent proceeding.

Movent proposes to purchase up to 220,000 Mcf of natural gas per day from Texas Eastern Transmission Corporation. The estimated total overall capital cost to complete the proposed system is $54,406,319.

The motion to amend pleadings to conform to the evidence is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53-2450; Filed, Mar. 19, 1953; 8:47 a. m.]

[Docket No. G-1600]

MICHIGAN GAS STORAGE CO.

NOTICE OF ORDER MODIFYING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

MARCH 16, 1953.

Notice is hereby given that on March 11, 1953, the Federal Power Commission issued its order entered March 10, 1953, modifying order (16 F R. 11091) issuing certificate of public convenience and necessity in the above-entitled matter.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53-2438; Filed, Mar. 19, 1953; 8:45 a. m.]

[Docket No. G-1888]

NEVADA NATURAL GAS PIPE LINE CO.

NOTICE OF ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

MARCH 16, 1953.

Notice is hereby given that on March 9, 1953, the Federal Power Commission issued its order entered March 4, 1953, amending order (17 F. R. 5972) issuing certificate of public convenience and necessity in the above-entitled matter.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53-2439; Filed, Mar. 19, 1953; 8:46 a. m.]

[Docket No. G-2069]

PHILADELPHIA ELECTRIC CO.

NOTICE OF ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

MARCH 16, 1953.

Notice is hereby given that on March 11, 1953, the Federal Power Commission issued its order entered March 10, 1953, amending order (17 F R. 10783) issuing certificate of public convenience and necessity in the above-entitled matter.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53-2440; Filed, Mar. 19, 1953; 8:46 a. m.]

FEDERAL TRADE COMMISSION

[File No. 21-450]

LIBRARY BINDING INDUSTRY

NOTICE OF HOLDING OF TRADE PRACTICE CONFERENCE

Notice is hereby given that a trade practice conference, under the auspices of the Federal Trade Commission, will be held for the Library Binding Industry in the Hotel Commodore, Lexington Avenue and Forty-second Street, New York City, on April 7, 1953, commencing at 10 a. m., e. s. t.

All persons, firms, and organizations engaged in the re-binding and pre-binding of books and other documentary and reference material for public or private libraries are considered members of the industry and are cordially invited to attend and participate in the conference proceedings.

The conference and further proceedings in the matter will be directed toward the eventual establishment and promulgation by the Commission of trade practice rules for the Library Binding Industry under which unfair methods of competition, unfair or deceptive acts or practices, and other trade abuses, may be eliminated and prevented.

By direction of the Commission.

Issued: March 17, 1953.

[SEAL] D. C. DANIEL, *Secretary.*

[F. R. Doc. 53-2469; Filed, Mar. 19, 1953; 8:51 a. m.]

OFFICE OF DEFENSE MOBILIZATION

[CDHA 103]

SOUTHEAST PINAL COUNTY, ARIZONA, AREA

FINDING AND DETERMINATION OF CRITICAL DEFENSE HOUSING AREAS UNDER THE DEFENSE HOUSING AND COMMUNITY FACILITIES AND SERVICES ACT OF 1951

MARCH 18, 1953.

Upon a review of the construction of new defense plants and installations, and the reactivation or expansion of operations of existing defense plants and installations, and the in-migration of defense workers or military personnel to carry out activities at such plants or installations and the availability of housing and community facilities and services for such defense workers and military personnel in the area set forth below, I find that all of the conditions set forth in section 101 (b) of the Defense Housing and Community Facilities and Services Act of 1951 (Pub. Law 139, 82d Cong., 1st Sess.) exist.

Accordingly, pursuant to section 101 of the Defense Housing and Community Facilities and Services Act of 1951 and by virtue of the authority vested in me by paragraph number 1 of Executive Order 10296 of October 2, 1951, I hereby determine that said area is a critical defense housing area.

Southeast Pinal County, Arizona, area. (The area consists of that portion of Pinal County bounded on the North by a line between Sections 30 and 31 of Township 8 South, Range 16 East; on the West by a line between Ranges 15 and 16 East; on the South by the Pima-Pinal County line; and on the East by the Graham-Pinal County line; all based on the Gila and Salt River baseline and meridian of the State of Arizona.)

ARTHUR S. FLEMMING, *Acting Director of Defense Mobilization.*

[F. R. Doc. 53-2517; Filed, Mar. 18, 1953; 3:51 p. m.]

[CDHA 103]

FOLEY, ALABAMA, AREA

FINDING AND DETERMINATION OF CRITICAL DEFENSE HOUSING AREAS UNDER THE DEFENSE HOUSING AND COMMUNITY FACILITIES AND SERVICES ACT OF 1951

MARCH 18, 1953.

Upon a review of the construction of new defense plants and installations, and the reactivation or expansion of operations of existing defense plants and installations, and the in-migration of defense workers or military personnel to carry out activities at such plants or installations and the availability of housing and community facilities and services for such defense workers and military personnel in the area set forth below, I find that all of the conditions set forth in section 101 (b) of the Defense Housing and Community Facilities and Services Act of 1951 (Pub. Law 139, 82d Cong., 1st Sess.) exist.

Accordingly, pursuant to section 101 of the Defense Housing and Community Facilities and Services Act of 1951 and by virtue of the authority vested in me by paragraph number 1 of Executive Order 10296 of October 2, 1951, I hereby determine that said area is a critical defense housing area.

Foley, Alabama, Area. (The area consists of Election Precincts 13 and 14, including Foley town, in Baldwin County, Alabama.)

ARTHUR S. FLEMMING, *Acting Director of Defense Mobilization.*

[F. R. Doc. 53-2516; Filed, Mar. 18, 1953; 3:51 p. m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 54-173, 54-191]

STANDARD GAS AND ELECTRIC CO. AND PHILADELPHIA CO.

ORDER APPROVING PLANS

MARCH 13, 1953.

In the matters of Standard Gas and Electric Company, and Philadelphia Company, File No. 54-191, Philadelphia Company, and Standard Gas and Electric Company, File No. 54-173.

Standard Gas and Electric Company ("Standard") a registered holding company and a subsidiary of Standard Power and Light Corporation ("Power"), also a registered holding company, hav-

ing filed an application (File No. 54–191) pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935 ("the act") for approval of a plan and amendments thereto providing for the liquidation of Standard ("Standard plan")

Standard having also filed an application (File No. 54–173) pursuant to section 11 (e) of the act for approval of a plan and amendments thereto providing for the simplification of the corporate structure of the system of Philadelphia Company ("Philadelphia") its subsidiary and also a registered holding company ("Philadelphia plan")

Steps I and I–A of the Standard plan having been consummated pursuant to an order of the Commission dated October 1, 1952 (Holding Company Act Release No. 11510) and an order of the United States District Court for the District of Delaware dated November 7, 1952 (Civil Action No. 1497) and

Steps 1 through 5 of the Philadelphia plan having been consummated, Step 4 having been consummated pursuant to an order of the Commission dated August 22, 1952 (Holding Company Act Release No. 11450) and an order of the United States District Court for the Western District of Pennsylvania dated October 7, 1952 (Civil Action No. 10,781) and Step 5 having been consummated pursuant to an order of the Commission dated December 31, 1952 (Holding Company Act Release No. 11650) and an order of the same Court dated January 30, 1953 (Civil Action No. 10,781)

Step II, as amended, of the Standard plan providing for the retirement of the $4 Cumulative Preferred Stock ("$4 Preferred Stock") of Standard through the allocation to the holders thereof of common stock of Duquesne Light Company ("Duquesne") a public utility subsidiary of Philadelphia; Step II–A, as amended, of the Standard plan providing for the retirement of the publicly held common stock of Philadelphia, the settlement of claims asserted against Standard by representatives of the holders of such publicly held common stock, and the distribution by Philadelphia to Standard of common stock of Duquesne required for the distributions under Step II, Step II–B, as amended, of the Standard plan providing for a distribution of Duquesne common stock to the holders of Philadelphia common stock in the event that Step II–A, as amended, cannot be consummated without delaying Step II, and the Philadelphia plan having been amended to include, as Step 6 thereof, Steps II–A and II–B of the Standard plan;

The proceedings in File Nos. 54–191 and 54–173 having heretofore been consolidated;

Public hearings having been duly held after appropriate notice with respect to Steps II, II–A, and II–B of the Standard plan and Step 6 of the Philadelphia plan, at which hearings all interested persons were afforded an opportunity to be heard;

Standard having requested that the Commission enter an order approving Step II, as amended, of the Standard plan and Step 6, as amended, of the Philadelphia plan (included as Steps II–A and II–B of the Standard plan) and that the Commission's order approving such Steps contain recitals in accordance with the requirements of the Internal Revenue Code, as amended, including Supplement R and section 1808 (f) thereof;

The Commission having considered the entire record in this matter and having this day filed its supplemental findings and opinion herein finding that Step II, as amended, of the Standard plan and Step 6, as amended, of the Philadelphia plan (included as Steps II–A and II–B of the Standard plan) are necessary to effectuate the provisions of section 11 (b) of the act and are fair and equitable to the persons affected thereby

Standard having further requested the Commission, pursuant to section 11 (e) of the act, to apply to appropriate United States District Courts to enforce and carry out the terms and provisions of Step II of the Standard plan and Step II–A of the Standard plan, as incorporated in Step 6 of the Philadelphia plan:

It is ordered, On the basis of the record herein, the Commission's findings and opinion dated October 1, 1952, and the said supplemental findings and opinion, pursuant to section 11 (e) and other applicable provisions of the act, that said Step II, as amended, of the Standard plan and Step 6, as amended, of the Philadelphia plan (included as Steps II–A and II–B of the Standard plan) be, and they are hereby approved, subject to the terms and conditions contained in Rule U-24 of the general rules and regulations promulgated under the act and to the following additional terms and conditions:

1. That this order shall not be operative to authorize the consummation of the transactions proposed in Step II of the Standard plan until an appropriate United States District Court shall, upon application thereto, enter an order enforcing Step II,

2. That this order shall not be operative to authorize the consummation of the transactions proposed in Step II–A of the Standard plan, as incorporated in Step 6 of the Philadelphia plan, until an appropriate United States District Court shall, upon application thereto, enter an order enforcing the said Step II–A,

3. That Step II–A shall not be consummated unless prior to such consummation the common stock of Philadelphia held by Power shall have been acquired by Standard pursuant to an order issued by this Commission;

4. That Step II–B of the Standard plan, as incorporated in Step 6 of the Philadelphia plan, shall not be consummated unless prior to such consummation Standard shall have given to the Commission at least 10 days' notice of its intention to consummate Step II–B, setting forth the reasons for carrying out Step II–B, prior to Step II–A, and no notice shall have been given to Standard by the Commission that a further application should be filed with respect thereto;

5. That Standard and Philadelphia shall pay only such fees and expenses in connection with Steps II, II–A, and II–B of the Standard plan and Step 6 of the Philadelphia plan and the proceedings relating thereto as the Commission may approve on appropriate application made to it, and jurisdiction hereby is specifically reserved to determine the reasonableness and appropriate allocation of all fees and expenses and other remuneration incurred or to be incurred in connection with said Steps, the transactions incident thereto, and the proceedings thereon and related thereto;

6. That prior to the distribution by Standard of the shares of common stock of Duquesne, pursuant to Step II of the Standard plan, Standard shall secure from Duquesne a commitment, in a form satisfactory to and to be filed with the Commission, that Duquesne and its subsidiaries, considered as a unit, shall not at any time after Duquesne ceases to be a subsidiary in the Power holding company system have, as an officer or director, a person who shall then be an officer or director of any other company presently or formerly in the holding company system of Power;

7. That the exchange agent provided for in Step II shall not make any exchanges until further order of this Commission with respect to securities now held by Mrs. Mayme E. O'Hara or Union Electric Power Company;

8. That jurisdiction be, and it hereby is, specifically reserved with respect to the following matters:

a. The selection and composition of the initial board of directors of Duquesne after it shall cease to be a subsidiary in the Power holding company system;

b. The supervision of efforts to locate holders of securities to be exchanged or distributed under the provisions of Step II of the Standard plan and Step 6 of the Philadelphia plan;

c. The appropriateness of the accounting entries to be made by Standard and Philadelphia in recording the transactions incident to the consummation of Step II of the Standard plan and Step 6 of the Philadelphia plan;

d. The selection of the exchange agent provided for in Step II of the Standard plan, Standard not to appoint an exchange agent until it has notified the Commission of the agent proposed to be employed and the manner by which such proposed agent was selected and the Commission has entered a further order herein releasing jurisdiction with respect to the agent proposed to be employed;

e. The terms, conditions, and procedures under which the exchange agent will convert into cash any shares of Duquesne common stock remaining unclaimed by holders of $4 Preferred Stock at the end of five years from the effective date of Step II,

f. The entry by the Commission of an order with respect to Step II–B, if that Step is to be consummated, containing the recitals and other provisions of section 1808 (f) and Supplement R of the Internal Revenue Code, as amended;

g. The entertaining of such further proceedings, entering of any further orders and the taking of such further action as may be necessary or appropriate in connection with Steps II, II–A and II–B of the Standard plan and Step 6 of the Philadelphia plan, the transac-

tions incident thereto, and the consummation thereof.

It is further ordered and recited, That all steps and transactions involved in the consummation of the retirement of the $4 Cumulative Preferred Stock of Standard pursuant to Step II of the Standard plan, including particularly the transfers, conveyances, exchanges, expenditures, distributions and receipts hereinafter described and recited in subparagraphs I through III below, are hereby authorized and approved and are necessary and appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935, all in accordance with the meaning and requirements of Supplement R of the Internal Revenue Code, as amended, and section 1808 (f) thereof, the stock and securities and other property to be transferred, conveyed, exchanged, received or distributed upon such transactions, and the expenditures to be made, being specified and itemized as follows:

I. The transfer by Standard to the holders of its 757,242 shares of $4 Cumulative Preferred Stock, including any shares thereof which may hereafter be issued in respect of outstanding scrip certificates for $4 Cumulative Preferred Stock of Standard, in exchange for and retirement of each share outstanding and all dividends accrued and in arrears thereon to the effective date of the exchange, of four shares of common stock of Duquesne, the transfer by Standard to the holders of scrip certificates for said $4 Cumulative Preferred Stock, in exchange for said scrip certificates, of common stock of Duquesne and/or cash as provided in Section 4 of Step II of the Plan, and the transfer and delivery by the holders of said $4 Cumulative Preferred Stock and/or scrip therefor to Standard of said shares and/or scrip certificates in exchange for said shares of common stock of Duquesne and/or cash.

II. The transfer and delivery by Standard to the Exchange Agent provided for by Step II of the Plan, of the 3,028,968 shares of common stock of Duquesne (to be represented by Certificates Nos. PU 16 and PU 17 registered in the name of Standard, referred to in subparagraph I above; the transfer of said Certificates for said common stock of Duquesne to and the registration of said stock in the name of said Exchange Agent or its nominees; the transfer and delivery by said Exchange Agent (or any subagent appointed by said Exchange Agent with the approval of Standard) to said holders of $4 Cumulative Preferred Stock of Standard and/or scrip certificates therefor upon the exchanges specified above of said common stock of Duquesne (by certificates issued against and upon transfer by said Agent of part of the shares represented by, such certificates so to be registered in the name of said Exchange Agent or its nominees) and/or cash; the transfer and delivery to said Exchange Agent or any such subagent by the holders thereof of the aforesaid $4 Cumulative Preferred Stock of Standard and/or scrip certificates in the exchanges above described; the payment by said Exchange Agent or any such subagent to said holders of $4 Cumulative Preferred Stock of Standard and/or scrip certificates therefor, at the time of delivery and transfer by it of shares of common stock of Duquesne as above provided, of any amounts received by such Exchange Agent as dividends upon the shares so delivered, less any taxes which may have been imposed or paid on said dividends; and the transfer and delivery by said Exchange Agent to Standard of the certificates for $4 Cumulative Preferred Stock of Standard and/or scrip certificates therefor received by the Exchange Agent or any such subagent upon such exchanges.

III. Upon the expiration of five years from the date of the deposit of certificates for common stock of Duquesne with the Exchange Agent by Standard for exchange for $4 Cumulative Preferred Stock of Standard and/or scrip certificates therefor under Step II of the Plan, the sale, transfer and delivery by said Exchange Agent of all certificates for shares of common stock of Duquesne held by the Exchange Agent in respect of $4 Cumulative Preferred Stock of Standard and/or scrip certificates therefor not theretofore surrendered for exchange, and the delivery by the Exchange Agent of the cash received upon such sale or sales, together with any other cash received by the Exchange Agent as dividends or otherwise upon any shares of Duquesne common stock which was then held by said Exchange Agent in respect of the $4 Cumulative Preferred Stock of Standard not theretofore surrendered or exchanged, and any cash received by the Exchange Agent from the Exchange Agent under Step I of the Plan, to Standard, or, in the event that Standard shall then have been liquidated and dissolved or otherwise disposed of, to the Exchange or other Agent provided for by the Plan or any amendment thereof, for distribution to the holders or former holders of common stock of Standard who may be entitled to receive the residual assets of Standard under the Plan.

It is further ordered and recited, That all steps and transactions involved in the consummation of Step II–A of the Standard plan, including particularly the transfers, conveyances, exchanges, issuances, expenditures, distributions and receipts hereinafter described and recited in subparagraphs I through IV below, are hereby authorized and approved and are necessary and appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935, all in accordance with the meaning and requirements of Supplement R of the Internal Revenue Code, as amended, and section 1808 (f) thereof, the stock and securities and other property to be transferred, conveyed, exchanged, issued, distributed and received upon such transactions, and the expenditures to be made, being specified and itemized as follows:

I. The transfer by Philadelphia to the holders of the 150,412 11/12ths shares of its common stock held by others than Standard and Power, including any shares which may hereafter be issued in respect of outstanding scrip certificates for common stock of Philadelphia (said 150,412 11/12ths shares of common stock of Philadelphia being hereinafter referred to as the public common stock of Philadelphia) in exchange for and retirement of each share outstanding, of one hundred seventy seven/two hundredths (177/200ths) of a share of common stock of Duquesne, scrip certificates to be issued and delivered in lieu of fractional shares as provided in Step II–A of the Standard plan, and the transfer and delivery by the holders of said public common stock to Philadelphia of said shares in exchange for said shares of common stock of Duquesne and/or scrip certificates therefor.

III. The transfer and delivery by Philadelphia to the Exchange Agent provided for by Step II–A of the Standard plan of the 133,116 shares of common stock of Duquesne (to be represented by Certificates Nos. PU12 and PU14 registered in the name of Philadelphia) referred to in subparagraph I above; the transfer of said certificates for said common stock of Duquesne to and the registration of said stock in the name of said Exchange Agent or its nominees; the transfer and delivery by said Exchange Agent (or any subagent appointed by said Exchange Agent with the approval of Standard) to said holders of public common stock of Philadelphia, upon the exchanges specified above, of said common stock of Duquesne (by certificates issued against, and upon transfer by said Agent of part of the shares represented by, such certificates so to be registered in the name of said Exchange Agent or its nominee) and scrip certificates for fractional interests in said common stock; the issuance and delivery by said Exchange Agent to such holders of public common stock of Philadelphia upon such exchanges, in lieu of any fractional shares of common stock of Duquesne to which they would otherwise be entitled, of scrip certificates for fractional shares of Duquesne common stock as provided in Step II–A of the Standard plan; the transfer of such scrip certificates upon the sale thereof for the account of the holders of such scrip certificates; the transfer and delivery by said Exchange Agent to the holders of said scrip certificates of shares of common stock of Duquesne to which they are entitled upon presentation (within the period provided in the Standard plan and said scrip certificates) of scrip certificates aggregating one or more full shares; the sale, transfer and delivery by said Exchange Agent, after the expiration of twelve months from the effective date of the exchange, of said shares of common stock of Duquesne held in respect of said scrip certificates, as well as additional shares of said common stock of Duquesne estimated to be required to provide for fractional share interests in respect of certificates for public common stock of Philadelphia then remaining unexchanged; and the purchase by, and transfer and delivery to, said Exchange Agent of additional shares of said common stock of Duquesne as required for adjustments under section 4 of Step II–A of the Standard plan; the transfer and delivery to said Exchange

Agent or any such subagent by the holders thereof of the aforesaid public common stock of Philadelphia in the exchanges above described; the transfer and delivery to said Exchange Agent of said scrip certificates by the holders thereof in exchange for shares of common stock of Duquesne and/or cash; the payment by said Exchange Agent to such holders of public common stock of Philadelphia and/or said scrip certificates, at the time of delivery and transfer by it of shares of common stock of Duquesne as above provided and/or at the time of surrender of said scrip certificates after the expiration of twelve months from the effective date of the exchange, of any amounts received by said Exchange Agent as dividends upon the shares so delivered or upon the portions of the shares previously held in respect of said scrip certificates, plus their pro rata share, if any, of the proceeds of sale of any shares held for such scrip certificates and so sold, less any taxes which may have been imposed or paid thereon; and the transfer and delivery by said Exchange Agent to Philadelphia of the certificates for the public common stock of Philadelphia received upon such exchanges.

III. Upon the expiration of five years from the date of deposit of certificates for common stock of Duquesne with the Exchange Agent by Philadelphia under Step II–A of the Standard plan, the transfer and delivery by said Exchange Agent to Duquesne of all certificates for shares of stock of Duquesne held by the Exchange Agent in respect of public common stock of Philadelphia not theretofore surrendered for exchange and all cash received by the Exchange Agent upon the sale of shares of common stock of Duquesne or received as dividends or otherwise upon any full shares of such common stock which are then held by said Exchange Agent in respect of such stock or outstanding scrip certificates, and the sale and transfer by Duquesne of the shares of Duquesne common stock so received by it from the Exchange Agent, in accordance with the provisions of section 6 of Step II–A of the Amended Plan.

IV The transfer and distribution by Philadelphia to Standard as the holder of common stock of Philadelphia, following the effective date of the exchange of the public common stock of Philadelphia above referred to, without the surrender by Standard of any of its shares of common stock of Philadelphia, of 6/10ths of a share of common stock of Duquesne for each share of common stock of Philadelphia held by Standard, or an aggregate of 3,018,414 shares of common stock of Duquesne in respect of the 5,030,690 shares of common stock of Philadelphia presently held by Standard (to be represented by Certificate No. PU6 registered in the name of Philadelphia) plus, if this Commission shall authorize the acquisition by Standard from Power of 9,750 shares of common stock of Philadelphia and Standard shall acquire such shares prior to the date of said distribution, an aggregate of 5,850 additional shares of common stock of Duquesne (to be represented by Certificate No. PU13 registered in the name of Philadelphia)

By the Commission.

[SEAL] ORVAL L. DuBOIS, *Secretary.*

[F. R. Doc. 53-2442; Filed, Mar. 19, 1953; 8:46 a. m.]

[File Nos. 70-2785, 70-2986]

STANDARD POWER AND LIGHT CORP. AND STANDARD GAS AND ELECTRIC CO.

ORDER PERMITTING ACQUISITION BY PARENT OF PORTFOLIO SECURITIES OF SUBHOLDING COMPANY UNDERGOING LIQUIDATION AND ACQUISITION BY ANOTHER SUBHOLDING COMPANY FROM PARENT OF STOCK INTEREST IN SUCH SUBHOLDING COMPANY UNDERGOING LIQUIDATION

MARCH 16, 1953.

In the matter of Standard Power and Light Corporation, File No. 70–2785; Standard Power and Light Corporation, Standard Gas and Electric Company, File No. 70–2986.

Standard Power and Light Corporation ("Power") a registered holding company, and its subsidiary, Standard Gas and Electric Company ("Standard") also a registered holding company, having filed applications-declarations, and amendments thereto, pursuant to sections 6, 7, 9, 10, 11 and 12 of the act and Rules U-42, U-43, U-44 and U-46 promulgated thereunder with respect to the following transactions:

Standard now owns 5,030,690 shares (96.9 percent) of the 5,190,852 11/12 outstanding shares of common stock of Philadelphia Company ("Philadelphia") a registered holding company, the principal asset of which is 4,517,904 shares (75.3 percent) of the 6,000,000 outstanding shares of common stock of Duquesne Light Company ("Duquesne") an electric utility company. Power, which holds approximately 54 percent of the common stock of Standard, owns 9,750 shares (0.2 percent) of Philadelphia's common stock, and the balance of 150,412 11/12 shares of Philadelphia common stock is held by the public.

Power, Standard and Philadelphia have all been ordered by this Commission to liquidate and dissolve. In order to effectuate compliance with the Commission's order, various plans have been filed by Standard and Philadelphia pursuant to section 11 (e) of the act.

On November 28, 1952, a plan for the partial liquidation of Philadelphia became effective. (Holding Company Act Release No. 11400.) Under this plan, the Commission permitted Philadelphia to distribute to its common stockholders, as a dividend in kind, one share of Duquesne common stock for each five shares of outstanding Philadelphia common stock. Under this plan, Power is entitled to receive 1,950 shares of Duquesne common stock and it has filed an application herein for authority to acquire such stock (File No. 70–2785)

By order dated March 13, 1953, the Commission approved Step II and Step II–A of a plan filed by Standard pursuant to section 11 (e) of the act, in further compliance with the required liquidation of Standard and Philadelphia and has filed applications for court enforcement thereof. (Holding Company Act Release No. 11765.) Step II–A of that plan provides, among other things, for the retirement of the Philadelphia common stock held by the public on the basis of 0.885 share of Duquesne common stock for each share of Philadelphia common stock. This basis was agreed upon by representatives of Standard and its stockholders and of the publicly held common stock of Philadelphia and reflects a settlement of certain claims of mismanagement advanced on behalf of the public stockholders against Standard.

If Step II–A of the Standard plan is consummated, the only stockholders of Philadelphia will be Standard and Power. The latter companies have filed a joint application-declaration herein (File No. 70–2986) wherein Standard proposes to purchase from Power the 9,750 shares of common stock of Philadelphia held by Power at a price of $24 per share, its approximate market price on the filing date (January 15, 1953), or an aggregate of $234,000. The proposed purchase will not affect Power's right to 7/10 of a share of common stock of Duquesne for each such share of Philadelphia common stock it now holds pursuant to the aforementioned plan for the partial liquidation of Philadelphia.

In connection with the proposal of Standard to acquire Power's holdings of common stock of Philadelphia, the filing states that such transaction and the consummation of Step II–A of the Standard plan which provides for the retirement of the publicly held common stock of Philadelphia, will result in the ownership by Standard of all the outstanding common stock of Philadelphia and that such ownership will greatly facilitate the ultimate liquidation of Standard and Philadelphia.

Appropriate notice of said filings having been given in the form and manner prescribed by Rule U-23 promulgated pursuant to the act, and the Commission not having received a request for a hearing with respect to said applications-declarations, as amended, within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to the amended applications-declarations that the applicable provisions of the act and rules promulgated thereunder are satisfied and that no adverse findings are necessary and deeming it appropriate in the public interest and in the interest of investors and consumers that said amended applications-declarations be granted and permitted to become effective forthwith, subject to the terms and conditions set forth below and deeming it appropriate to grant applicants-declarants' request for tax recitals:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that said applications-declarations, as amended, be, and the same hereby are, granted and permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24 and to the further condition that the common

stock of Duquesne to be acquired by Power pursuant to the application-declaration in File No. 70-2785 shall be held subject to the Commission's order dated June 19, 1942 requiring Power to liquidate and dissolve and that the common stock of Philadelphia to be acquired by Standard pursuant to the joint application-declaration, as amended, in File No. 70-2986 shall be held subject to the Commission's order dated December 31, 1948 requiring Standard to liquidate and dissolve.

It is further ordered and recited, That the sales, transfers, conveyances, acquisitions, receipts, expenditures and investments hereinafter described and recited which are proposed by Standard and Power in the joint application-declaration under File No. 70-2986 are hereby authorized and approved and are necessary and appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935, all in accordance with the meaning and requirements of section 1808 (f) of the Internal Revenue Code, the stock and securities and other property to be sold, transferred, conveyed, acquired, or received upon such transactions, and the expenditures and investments to be made, being specified and itemized as follows:

The sale and transfer by Power to Standard of the 9,750 shares of common stock of Philadelphia now owned by Power, for $24 per share in cash, or an aggregate of $234,000, and the purchase thereof by Standard from Power for said price, such purchase to be ex the distribution of 2/10 of a share of common stock of Duquesne pursuant to the Plan dated September 10, 1951, referred to in said application-declaration.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 53-2441; Filed, Mar. 19, 1953; 8:46 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 27891]

CAUSTIC SODA FROM POINTS IN THE MIDWEST, THE EAST AND THE SOUTH TO MISSOURI RIVER CITIES AND ADJACENT POINTS

APPLICATION FOR RELIEF

MARCH 17, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by L. C. Schuldt and C. W. Boin, Agents, for carriers parties to schedules listed below.

Commodities involved: Caustic soda, in solution, in tank-car loads.

From: Points in Michigan, Ohio, West Virginia, New York, and Virginia.

To: Atchison and Leavenworth, Kans., Kansas City, Mo.-Kans., St. Joseph, Mo., and other points in Missouri.

Grounds for relief: Competition with rail carriers and circuitous routes.

Schedules filed containing proposed rates: L. C. Schuldt, Agent, I. C. C. No. 4238, Supp. 77 C. W Boin, Agent, I. C. C. No. A-970, Supp. 7.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD, *Acting Secretary.*

[F. R. Doc. 53-2444; Filed, Mar. 19, 1953; 8:46 a. m.]

[4th Sec. Application 27892]

SUGAR FROM PHILADELPHIA, PA., TO CENTRAL TRUNK-LINE TERRITORIES

APPLICATION FOR RELIEF

MARCH 17, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by C. W. Boin, Agent, for carriers parties to his tariff I. C. C. No. A-874.

Commodities involved: Sugar (dry, liquid, or invert) carloads.

From: Philadelphia, Pa.

To: Points in the eastern part of central territory and adjacent points in trunk-line territory.

Grounds for relief: Rail competition, circuitous routes, additional routes, and to maintain grouping.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Acting Secretary.*

[F. R. Doc. 53-2445; Filed, Mar. 19, 1953; 8:46 a. m.]

[4th Sec. Application 27833]

CEMENT FROM NORTHAMPTON, NAVARRO, AND YORK, PA., TO COUNCIL BLUFFS, IOWA

APPLICATION FOR RELIEF

MARCH 17, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by C. W. Boin, Agent, for carriers parties to schedule listed below.

Commodities involved: Cement, carloads.

From: Northampton, Navarro, and York, Pa.

To: Council Bluffs, Iowa.

Grounds for relief: Rail competition, circuitous routes, and to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: C. W. Boin, Agent, I. C. C. No. A-970, Supp. 6.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Acting Secretary.*

[F. R. Doc. 53-2446; Filed, Mar. 19, 1953; 8:47 a. m.]

[4th Sec. Application 27834]

PHOSPHATIC FEED SUPPLEMENTS IN OFFICIAL AND ILLINOIS TERRITORIES

APPLICATION FOR RELIEF

MARCH 17, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by L. C. Schuldt, Agent, for carriers parties to schedule listed below.

Commodities involved: Phosphatic feed supplements, viz: defluorinated phosphate and superphosphate, phosphate di-calcium, and bone meal, carloads.

From: Points in official and Illinois territories.

To: Base points named in section 2 of the schedule described below.

Schedules filed containing proposed rates: L. C. Schuldt, Agent, I. C. C. No. 4548.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-2447; Filed, Mar. 19, 1953; 8:47 a. m.]

[4th Sec. Application 27895]

COAL FROM LAKE SUPERIOR DOCKS IN WISCONSIN TO MINNESOTA

APPLICATION FOR RELIEF

MARCH 17, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by W J. Prueter, Agent, for carriers parties to schedules listed below.

Commodities involved: Coal, anthracite and bituminous, including bituminous fine coal and anthracite dust, carloads.

From: Superior, Wis., and other points in Wisconsin.

To: Points in Minnesota.

Grounds for relief: Rail competition and lake port competition.

Schedules filed containing proposed rates: CMStP&P RR. I. C. C. No. B-7186, Supp. 65; CMStP&P RR. I. C. C. No. B-7711, Supp. 5; CStPM&O Ry. I. C. C. No. 4849, Supp. 79; GN Ry. I. C. C. No. A-7889, Supp. 80; GN Ry. I. C. C. No. A-7891, Supp. 73.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-2448; Filed, Mar. 19, 1953; 8:47 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

[Vesting Order 19190]

JOHN OTTO AND MARIE JOHANNA EWERS

In re: Claims owned by John Otto Ewers and Marie Johanna Ewers. D-28-13126-C-1, E-1.

Under the authority of the Trading With the Enemy Act, as amended (50 U. S. C. App. and Sup. 1-40) Public Law 181, 82d Congress, 65 Stat. 451, Executive Order 9193, as amended by Executive Order 9567 (3 CFR 1943 Cum. Supp., 3 CFR 1945 Supp.) Executive Order 9788 (3 CFR 1946 Supp.) and Executive Order 9989 (3 CFR 1948 Supp.) and pursuant to law, after investigation, it is hereby found:

1. That John Otto Ewers and Marie Johanna Ewers, each of whose last known address is Ostenfeld 140, (24B) Kreis Husum, Schleswig Holstein, Germany, on or since December 11, 1941, and prior to January 1, 1947, were residents of Germany and are, and prior to January 1, 1947, were nationals of a designated enemy country (Germany)

2. That the property described as follows:

a. The claim against the State of New York and the Comptroller of the State of New York, arising by reason of the collection or receipt by said Comptroller of the following: That sum of money previously held by the Bowery Savings Bank (successor to the North River Savings Bank) 130 Broadway, New York 18, New York, in savings account No. 83820, entitled "John Otto Ewers" which sum was deposited with the Comptroller of the State of New York in accordance with the provisions of Section 700 Chapter 697 of the Abandoned Property Law (1943) of the State of New York,

and any and all rights to demand, enforce and collect the aforesaid claim, and

b. The claim against the State of New York and the Comptroller of the State of New York arising by reason of the collection or receipt by said Comptroller of the following: That sum of money previously held by the Bowery Savings Bank (successor to the North River Savings Bank) 130 Broadway New York 18, New York, in savings account No. 173044, entitled "Marie Johanna Ewers in trust for Marie Irene Ewers" which sum was deposited with the Comptroller of the State of New York in accordance with the provisions of Section 700 Chapter 697 of the Abandoned Property Law (1943) of the State of New York,

and any and all rights to demand, enforce and collect the aforesaid claim,

is property which is and prior to January 1, 1947, was within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, John Otto Ewers and Marie Johanna Ewers, the aforesaid nationals of a designated enemy country (Germany),

and it is hereby determined:

3. That the national interest of the United States requires that the persons identified in subparagraph 1 hereof, be treated as persons who are and prior to January 1, 1947, were nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 16, 1953.

For the Attorney General.

[SEAL] PAUL V MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 53-2459; Filed, Mar. 19, 1953; 8:49 a. m.]

ANGELINA CHIATTO

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Angelina Chiatto, Canada; Claim No. 36851; $1,769.89 in the Treasury of the United States.

Executed at Washington, D. C., on March 16, 1953.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 53-2462; Filed, Mar. 19, 1953; 8:50 a. m.]